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FROM THE

GENERAL LAND OFFICE

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SHOWING

THE MANNER OF PROCEEDING

TO

OBTAIN TITLE TO PUBLIC LANDS UNDER THE HOMESTEAD, DESERT LAND, AND OTHER LAWS.

Issued July 11, 1899.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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IN REFERENCE TO

THE MANNER OF ACQUIRING TITLE TO THE PUBLIC LANDS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 11, 1899.

The public lands of the United States are included within the States of Alabama, Arkansas, California, Colorado, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming, the Territories of Arizona, New Mexico, and Oklahoma, and the District of Alaska.

In Ohio, Indiana, and Illinois only a few isolated tracts of public land remain.

In these States and Territories, with the exception of the three last mentioned, there are land districts with defined boundaries, in each of which a land office is established by law, where a register and receiver are in attendance, for the sale or other disposal of the public lands embraced therein. For appointments, term, compensation, and general duties of these registers and receivers, see sections 2234 to 2247 of the Revised Statutes of the United States. (Appendix No. 1, pp. 144–146.)

A land office, with an ex-officio register and receiver, was established for the District of Alaska, under the act of Congress of May 17, 1884 (23 Stat. L., 24; Appendix No. 26, p. 182), which provides for the disposal of the minerals therein; and sections 11, 12, 13, 14, and 15 of the act of Congress approved March 3, 1891 (26 Stat. L., 1095; Appendix No. 44, p. 221), admit of entries therein for town-site purposes and of lands used and occupied for the purposes of trade and business, but the agricultural lands in that district are not subject to survey or disposal under the general land laws.

Additional legislation respecting Alaska lands is contained in the act of Congress of May 14, 1898 (30 Stat., 409; Appendix No. 77, p. 248). Districts have been established with land offices at Sitka, Peavy, Rampart City, and Circle.

Any proper information regarding vacant public lands may be obtained by application at any of the land offices, a list of which will be found on page 270.

PURCHASE AT PUBLIC SALE AND PRIVATE ENTRY.

The sale of lands at public auction was, prior to March 3, 1891, provided for by law (Rev. Stat., secs. 2353, 2357, 2358, 2359, 2360, and 2455; Appendix No. 1, 158 and 161), but such sales were prohibited by sections 9 and 10 of the act of that date (26 Stat. L., 1095; Appendix

No. 44, p. 221), save under the exceptions noted in said sections, which read as follows:

SEC. 9. That hereafter no public lands of the United States, except abandoned military or other reservations, isolated and disconnected fractional tracts authorized to be sold by section twenty-four hundred and fifty-five of the Revised Statutes, and mineral and other lands, the sale of which at public auction has been authorized by acts of Congress of a special nature having local application, shall be sold at public sale.

SEC. 10. That nothing in this act shall change, repeal, or modify any agreements or treaties made with any Indian tribes for the disposal of their lands, or of land ceded to the United States to be disposed of for the benefit of such tribes, and the proceeds thereof to be placed in the Treasury of the United States; and the disposition of such lands shall continue in accordance with the provisions of such treaties or agreements, except as provided in section five of this act.

The first section of the act of Congress of March 2, 1889 (25 Stat. L., 854; Appendix No. 32, p. 187), provides that from and after its passage "no public lands of the United States, except those in the State of Missouri, shall be subject to private entry." This relates to the private sale or entry of "offered" lands under sections 2354 and 2357, United States Revised Statutes. No sale or location at private entry will be admissible under said first section, except in Missouri, in which State all public lands are subject to private sale by section 2 of the act of Congress approved May 18, 1898 (30 Stat., 418), but in making purchase under that act the purchaser is required to show the absence of any prior adverse settlement right.

These provisions of said acts of 1889 and 1891, while forbidding the disposal at public auction or private sale of the mass of public lands under the general statutes that formerly provided therefor, do not necessarily prevent the disposal of lands under any act of Congress of a special nature having local application, in such manner as therein provided for, in reference to any specific lands or class of lands, although this may include the disposal thereof at public auction or private sale, as, for example, coal lands at private entry under section 2347, Revised Statutes, circular July 31, 1882, 1 L. D., 687; Osage trust and diminished reserve lands at private entry, last sentence, section 3, act of May 28, 1880, 21 Stat. L., 143; salt spring reserve lands, act of January 12, 1877, 19 Stat. L., 221.

MINIMUM AND DOUBLE MINIMUM LANDS.

No land shall be sold, either at public or private sale, for less than $1.25 per acre, which is therefore called the "minimum price," and lands held for sale at that price are called "minimum lands." (Rev. Stat., 2357; Appendix No. 1, p. 158.)

The double minimum price established by law is $2.50 per acre, and lands held for sale at that price are called "double minimum lands."

Alternate reserved sections within the limits of railroad grants are double minimum in price (sec. 2357, Rev. Stat.), except such as were put in market at the enhanced price prior to January 1, 1861, and were subject to entry June 15, 1880, all of which were reduced in price to $1.25 per acre by the third section of the act of Congress of June 15, 1880 (21 Stat. L., 237; Appendix No. 20, p. 178), and except those opposite those portions of railroads not completed on March 2, 1889, which were reduced in price by section 4 of the act of that date (25 Stat. L., 854; Appendix No. 32, p. 187), or where a different price is provided for in statutes for the disposal of lands under special conditions. Lands reduced in price under act of June 15, 1880, are not, however, subject to private entry at the reduced price until again offered at public sale (Eldred *v.* Sexton, 19 Wall., 189).

PUBLIC SALE OF ISOLATED TRACTS.

Any party desiring the sale of an isolated tract under the provisions of section 2455, Revised Statutes, as amended by the act of February 26, 1895 (28 Stat. L., 687; Appendix No. 63, p. 238), will be required to file in the district land office having jurisdiction over the tract an affidavit made by himself and duly corroborated by two witnesses, setting forth the character of the land; stating whether it is covered with timber or contains stone or any mineral, whether it is agricultural in character, for what purpose the land would be chiefly valuable, and why he desires the same ordered into market. It must also be shown that the tract is unoccupied by anyone having color of title thereto.

No lands are subject to be ordered into market as aforesaid until the same shall have been subject to homestead entry for a period of three years after the surrounding lands have been entered, filed upon, or sold by the Government.

Care must be taken by the district land officers in reporting any such application for the Commissioner's favorable action thereon that their plats and other records do not show the existence of any objection to the offering of such lands under said law. When instructions are received from the General Land Office ordering such tract or tracts to be exposed at public sale, they will cause a notice to be published once a week for the space of thirty days in a newspaper of general circulation in the vicinity of the land, using the form given on page 299.

The day of sale must be fixed so as to take place at least thirty days after the date of the first publication of the notice. The register will also make proper posting of notice. The sale must close immediately after offering the lands thus advertised; but should any of the lands thus offered not be purchased at the public sale, they will not subsequently be regarded as subject to ordinary private entry unless located within the State of Missouri, in view of the provisions of the first section of the act of March 2, 1889 (25 Stat. L., 854; Appendix No. 32, p. 187).

The party desiring such offering to be made must first make a deposit of sufficient money to pay the cost of publishing the notice and all other expenses of the sale, the deposit to be made with the receiver, who will notify the register thereof, that he may cause the notice to be published; but applicants are not to be deprived of the right to make their own contracts for the publication of notice, following rule 5, page 84, of this circular in reference to final-proof notices.

Such action will, however, give the applicant no preference right over others desiring to purchase the land, as the same must be offered at public sale, and in case of competition must be disposed of to the highest bidder.

A nonmineral affidavit (Form 4–062) must be furnished by the purchaser. It will be observed that no more than 160 acres shall be sold to any one person at the offering under said section 2455, but this amount is not limited by the provisions of the acts of August 30, 1890, and March 3, 1891. (Charles H. Boyle, 20 L. D., 255.)

Immediately after each sale the district officers will transmit to the General Land Office a joint report showing the lands offered, indicating the sales, the numbers of the certificates, date of sale, and names of the purchasers.

They will issue the cash papers the same as in ordinary cash entries, and report them in their current monthly returns, forwarding with said entries the affidavit of the publisher, showing the thirty days' publication, together with the register's certificate of posting.

MODE OF PROCEEDING IN MAKING CASH PURCHASES.

A person desiring to purchase a portion of the public land for cash must present a written application to the register for the district in which the land described is situated, describing the tract and giving its area (see Form 4–001, p. 271). If the tract is vacant and subject to the entry applied for, the register will so certify to the receiver, stating the price, and the applicant must pay to the latter the amount of the purchase money. Thereupon the receiver will issue his receipt in duplicate to the purchaser for the money paid (Form 4–131, p. 271). The register will then issue his certificate of purchase (Form 4–189, p. 271).

At the close of the month the register and receiver will make returns of the sale to the General Land Office, from which, when the proceedings are found regular, a patent will be issued.

CASH PURCHASE BY TIMBER TRESPASSERS.

In addition to the foregoing in reference to purchase at public offering and purchase or location at ordinary private entry, it is to be noted that the first section of the act of Congress of June 15, 1880 (21 Stat. L., 237; Appendix No. 20, p. 178), having reference to cases of timber trespasses upon the public lands committed prior to March 1, 1879, has been held to extend to such trespassers the privilege of paying for the land upon which the offenses were so committed, at the price per acre for which under the law in force at date of payment the lands could be sold. This privilege of purchase was held not to be confined to lands subject to private entry, but to extend to any lands not mineral subject to disposal under the general existing laws.

But it is now held that the fact of trespass does not, under said act, give the trespasser the right to purchase lands otherwise excluded from sale. (Woodstock Iron Company, 6 L. D., 738.)

The provisions referred to apply only to tracts trespassed upon prior to March 1, 1879, and it is thought that few, if any, tracts remain undisposed of to which they would be applicable. From this fact and the operation of the act of March 2, 1889, withdrawing public lands generally from private entry, these provisions from the statute may be considered as no longer operative, unless in the adjustment of claims heretofore initiated.

WARRANT LOCATIONS.

Military bounty-land warrants may be located upon any vacant public lands of the United States that are subject to sale at *private entry*, and they may be used in payment of preemption claims or in commutation of homestead entries, even when the same embrace *unoffered* lands. But the only lands now subject to private entry under general statutes are in the State of Missouri. (See first section act of March 2, 1889, 25 Stat. L., 854.)

A warrant issued to several parties or assigned to three or more persons (sec. 2414, Rev. Stat.; Appendix No. 1, p. 160) can not be located if assigned by one of the owners to another or to other persons, so as to invest any one of the parties with a greater interest than any other. In other words, each owner of a warrant, at the time of its location, must have an *equal* share or interest therein.

A warrant may be located either at a district land office or through the agency of this office (sec. 2437, Rev. Stat.; Appendix No. 1, p. 160).

If located at a district office, it must be accompanied by a tender of the fees to which the register and receiver are entitled and by a written application to locate, containing a description of the tracts desired, and signed by the locator or his attorney in fact. If by the latter, his authority to act must be evidenced by a power of attorney, which must be prepared in accordance with the prescribed form and indorsed, if practicable, upon the warrant.

If the location is made through *this office*, the warrant must be sent to the Commissioner with a request that the same be located in a specified land district, and accompanied by a receipt from the register and receiver for the fees to which they may be severally entitled under section 2238, Revised Statutes.

Each warrant is required to be distinctly and separately located upon a *compact* body of land; and if the area of the tract claimed should exceed the number of acres called for in the warrant the locator must pay for the excess in cash; but if it should fall short, he must take the tract in full satisfaction for his warrant. A person can not enter *a body of land* with a number of warrants without specifying the particular tract or tracts to which each shall be applied; and for each warrant there must be a distinct location certificate and patent. (Sec. 2415, Rev. Stat.; Appendix No. 1, p. 160.)

Where the desired tract is subject to entry at a greater minimum than $1.25 per acre, the locator, in addition to the surrendered warrant, must pay in cash the difference between the value of such warrant at $1.25 per acre and that of the said land, or present a warrant of such denomination as will, at its legal value of $1.25 per acre, cover the rated price of the tract, and pay the excess in value of the land, if any, in cash. For example: A tract of 40 acres of land held at $2.50 per acre may be entered by the location of a warrant calling for 40 acres and the payment of $50 in cash; or by locating thereon a warrant for 80 acres, the 40 acres embraced in the entry being received in full satisfaction of the same; or a tract containing 80 acres rated at $2.50 per acre may be entered by the location of *two* 80-acre warrants, or of *one* for 160 acres, and so on. It will be required, however, in the entry of a tract held at a greater minimum than $1.25 per acre, by the location of *two or more* warrants, that *each warrant* shall be located upon a *specific legal subdivision thereof*, which legal subdivision shall be received in full satisfaction of the warrant surrendered therefor; and that the excess in value of the lands, if any there be, shall in each case be paid in cash. Hence a tract containing 40 acres or less of double minimum land can not be entered by the location of *two 40-acre warrants.*

A preemptor of lands held at $1.25 per acre may enter the tract embraced in his claim by the location of one, two, or more warrants; but each warrant must be applied to a specific subdivision thereof—that is, a warrant for 40 acres must be located upon a described subdivision containing as nearly as possible 40 acres of land; a warrant for 80 acres upon a tract embracing 80 acres, and so on. Where the preemption claim is composed of land subject to entry at a greater minimum than $1.25 per acre, the rules set forth in the preceding section will apply. (Sec. 2277, Rev. Stat.; Appendix No. 1, p. 151.)

When a subdivision is fractional a warrant approximating nearest the number of acres embraced therein may be located thereon, but the fractional excess in area must be paid for with cash, and will be conveyed in the same patent with the lands covered by the location of the warrant; a *legal subdivision*, however, other than those entered by the location of the warrant will not be regarded as a legitimate fractional excess

over such location, but will be required to constitute a *separate entry.* Thus a person will not be permitted to make *one entry* of a quarter section of land by the location of a warrant for 120 acres and a cash payment for the remaining subdivision.

Registers and receivers of the local land offices are entitled to the following fees for their services in locating warrants, and the several amounts mentioned must be paid *at the time of location:*

	Each to the register and receiver.	Total.
For a 40-acre warrant	$0.50	$1.00
For a 60-acre warrant	.75	1.50
For an 80 acre warrant	1.00	2.00
For a 120-acre warrant	1.50	3.00
For a 160-acre warrant	2.00	4.00

(Bounty warrants were not issued to soldiers and sailors for military service in the late civil war. The only privileges granted them in connection with the public lands will be found set forth hereafter under the head "Homesteads." The bounties for military service in this war were not given in land but in money.)

PRIVATE LAND SCRIP LOCATION.

Scrip issued in satisfaction of private land claims under decrees of the United States Supreme Court, pursuant to acts of Congress of June 22, 1860 (12 Stat. L., 85), March 2, 1867 (14 Stat. L., 544), and June 10, 1872 (17 Stat. L., 378), and scrip issued under the act of June 2, 1858 (11 Stat. L., 294), may be located on lands subject to sale at private entry or in payment of preemption claims and in commutation of homestead claims, in the same manner as military bounty-land warrants. (See act of January 28, 1879, 20 Stat. L., 274; Appendix No. 9, p. 169.)

ADDITIONAL METHODS FOR USING MILITARY BOUNTY LAND WARRANTS, AND SCRIP ISSUED UNDER ACT OF JUNE 2, 1858.

The act of December 13, 1894 (28 Stat. L., 594; Appendix No. 58, p. 236), "in addition to the benefits now given thereto by law," provides that military bounty land warrants and scrip issued under section 3 of the act approved June 2, 1858, may be located in certain other classes therein specified, viz:

In the payment, or part payment, for any lands entered under the desert-land law of March 3, 1877, and the amendments thereto; in payment, or part payment, for lands entered under the timber-culture law of March 3, 1873, and the amendments thereto; in payment, or part payment, for lands entered under the timber and stone law of June 3, 1878, and the amendments thereto; and in payment, or part payment, for lands sold at public auction, except such lands as shall have been purchased from any Indian tribe within ten years last past.

This act does not change existing law or regulations as to the location of such warrants or scrip upon lands subject to sale at private entry, or in payment for preemption claims or commutation of homestead entries.

In reference to the four classes of entries specified in the act of December 13, 1894, one or more warrants or certificates of location are receivable in payment, or part payment, for a tract of land entered

under either of the laws designated, at the rate of $1.25 per acre upon the expressed value of the warrants or certificates of location. If the amount of money due on such entry exceeds the face value of the warrant or certificate of location at the rate of $1.25 per acre, the entryman must pay for the excess in cash, but if the face value of the warrant or certificate of location exceeds the amount due on such entry, the claimant must take the tract in full satisfaction of said warrant or certificate of location.

In initiating an entry under the desert-land laws payment may be made in money to the amount of 25 cents per acre, as required by previously existing law, or, if preferred, warrants or scrip may be tendered as payment, and if the face value of such warrant or scrip exceeds the amount of money due in initiating said entry, credit may be given for any balance, to be applied to final payment when final proof has been made.

Where such warrants or scrip are tendered as payment by other than the party to whom issued, evidence will be required that the entryman is the heir or legatee of the party to whom issued, or evidence that said warrant or certificate of location has been duly assigned in accordance with circulars of July 20, 1875, and February 13, 1879.

No fees are required to be paid where warrants or certificates of location are used under this act, the same being regarded as the equivalent for money to the extent of their value at the rate of $1.25 per acre, and the local officers will receive from the United States Treasury their commissions upon the surrender thereof, as in the case of entries made with actual cash.

When located each warrant or certificate of location must be relinquished by the legal owner thereof after the following form, viz:

I (or we) do hereby relinquish to the United States the within military bounty land warrant or certificate of location in payment (or in part payment, as the case may be) of the (here describe the tract), located in the name of ———, at the land office at ———, this —— day of ———, 18—.

(Signed) A. B. [SEAL.]

Witnesses: C. D.
E. F.

It may also be added that, under said act, no warrant or certificate of location can be used in payment for any lands which have been purchased from any Indian tribe within ten years last past, neither can they be used in payment for lands ceded to the United States by any Indian tribe where such lands are to be disposed of for the benefit of such Indian tribe.

AGRICULTURAL COLLEGE SCRIP LOCATIONS.

Agricultural college scrip issued under the acts of July 2, 1862 (12 Stat. L., 503), and March 3, 1883 (22 Stat. L., 484), may be used—

First. In the location of land at "*private entry;*" but when so used is applicable only to lands *not mineral* which may be subject to *private entry*, at $1.25 per acre, and is restricted to a technical "*quarter section*"—that is, land embraced by the quarter-section lines indicated on the official plats of survey; or it may be located on a *part* of a "quarter section," where such part is taken as in full for a quarter; but it can not be applied to different subdivisions to make an area equivalent to a quarter section. (Sec. 2, act July 2, 1862, 12 Stat. L., 503.) The manner of proceeding to acquire title with this class of paper is the same as in cash and warrant cases, the fees to be paid being the same as on warrants. The location of this scrip at private entry is restricted to *three*

sections in *each township* of land, and 1,000,000 *acres* in *any one State.* (15 Stat. L., 227.)

Under the first section of the act of March 2, 1889 (25 Stat. L., 854, Appendix No. 32, p. 187), there is no land now subject to private entry, under general statutes, except in the State of Missouri.

Second. In payment of preemption claims and in commutation of homestead entries. (Sec. 2278, Rev. Stat.; Appendix No. 1, p. 151.) When so used it can be located on minimum or double minimum lands, and there is no limitation of the quantity that may be located in a township or State. When located in payment of preemption claims and in commutation of homestead entries on double minimum lands, the excess price must be paid or a double quantity of the scrip surrendered. (Secs. 2277, 2278, Rev. Stat.; Appendix No. 1, p. 151.)

When the land located is rated at $1.25 per acre, and the area does not exceed the area specified in the scrip, it must be taken in full satisfaction thereof. (Secs. 2277, 2278, Rev. Stat.; Appendix No. 1, p. 151.)

PREEMPTION LAWS REPEALED BY ACT OF MARCH 3, 1891.

The fourth section of the act of March 3, 1891 (26 Stat. L., 1095; Appendix No. 44, p. 221), repeals generally all the laws allowing preemption of the public lands by individuals, but provides for perfecting claims previously initiated; therefore no filings or entries will be allowed under the preemption laws except when necessary to perfect claims initiated prior to the approval of the repealing act, or claims to Indian lands covered by its tenth section.

For necessary information relative to the adjustment of such claims reference is made to the laws and regulations as given in Appendix No. 1, page 146, and Appendix No. 84, page 260.

EXTENSION OF TIME OF PAYMENT.

By joint resolution of Congress of September 30, 1890 (26 Stat. L., 684), it was enacted—

> That whenever it shall appear by the filing of such evidence in the offices of any register and receiver as shall be prescribed by the Secretary of the Interior that any settler on the public lands, by reason of a failure of crops for which he is in no wise responsible, is unable to make the payment on his homestead or preemption claim required by law, the Commissioner of the General Land Office is hereby authorized to extend the time for such payment for not exceeding one year from the date when the same becomes due.

By the second section of the act of July 26, 1894 (28 Stat. L., 123), it was provided—

> That the time of making final payments on entries under the preemption act is hereby extended for one year from the date when the same becomes due in all cases where preemption entrymen are unable to make final payments from causes which they can not control, evidence of such inability to be subject to the regulations of the Secretary of the Interior.

1. Any party applying for the extension of time authorized by said resolution or act will be required to submit to the register and receiver of the proper district land office testimony, to consist of his own affidavit, corroborated, so far as possible, executed before the register or receiver, or some officer authorized under the acts of May 26, 1890, and March 2, 1895, to administer the oaths required in homestead entries within the county where the land is situated, setting forth in detail the facts relating to the failure of crops, or other causes on which he relies to support his application, and that he is unable for such reasons to make the payment required by law. (11 L. D., 417.)

The register and receiver will not accept any application for extension under said resolution until the party shall have in due course submitted final proof on his claim and the same shall have been found satisfactory by them; and should any such application be made prior to the submission of the proof and their favorable finding thereon, they will reject the application, so advise the applicant, and inform him that he acquired no right thereby under said joint resolution.

2. After application received in accordance with the foregoing rule, the register and receiver will note upon their records in pencil that the same has been filed, and transmit it, together with the testimony filed in support thereof, and the final proof submitted and found satisfactory by them, as above, accompanied by their report, and await further instructions.

3. Thereafter they will allow no filing or entry for the land covered by the claim sought to be perfected until decision of this office on the pending application.

4. The register and receiver will be careful to distinguish between an application under said joint resolution for an extension of time for payment and an application for leave of absence under the act of March 2, 1889 (25 Stat. L., 854).

Applications under these instructions will be made special. (See case of Parker *v.* Brown, 20 L. D., 323.)

Additional extensions of time to make payment have been provided as follows:

Act of February 26, 1896 (29 Stat. L., 16), extending for one year the time for making proof and payment for all lands located under the homestead laws in any former Indian reservation in South Dakota.

Act of June 10, 1896 (29 Stat. L., 342), granting to homestead settlers on all ceded Indian reservations an extension of one year to make payment.

Act of June 7, 1897 (30 Stat. L., 87), granting a further extension of one year to make payment to settlers on all ceded Indian reservations.

Act of July 1, 1898 (30 Stat. L., 595), extending the time to make payment until July 1, 1900, to settlers on all ceded Indian reservations.

HOMESTEADS.

The homestead laws secure to qualified persons the right to settle upon, enter, and acquire title to not exceeding one quarter section, or 160 acres, of public land, by establishing and maintaining residence thereon and improving and cultivating the land for the continuous period of five years.

A homestead entryman must be the head of a family, or a person who has arrived at the age of 21 years, and a citizen of the United States, or one who has filed his declaration of intention to become such, as required by the naturalization laws, to which section 5 of the act of March 3, 1891 (26 Stat. L., 1095; Appendix No. 44, p. 221), attaches the condition that he must not be the proprietor of more than 160 acres of land in any State or Territory.

Applicants to make homestead entries were restricted by section 2289, Revised Statutes, to "unappropriated public lands upon which such person may have filed a preemption claim, or which may, at the time the application is made, be subject to preemption," but the act of March 3, 1891, which repealed the preemption laws, so amended said section 2289 as to describe the class of lands subject to homestead entry simply as "unappropriated public lands."

The homestead law originally required the applicant in all cases to

appear personally at the district land office and present his application (Form No. 4–007, p. 274), and to make the required affidavits before the register or receiver. This requirement was modified by the provisions of section 2294, Revised Statutes, and a further change was made by the amendment of said section by the act of May 26, 1890 (26 Stat. L., 121; Appendix No. 38, p. 213).

The said act modified the requirements of previous general laws by allowing parties who are prevented "by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office" to make the preliminary affidavits for homestead entries within the county or parish before any commissioner of the United States circuit court having jurisdiction over the county or parish in which the land desired is situated, or before the judge or clerk of any court of record of such county or parish, and to transmit the same, with their applications and the proper fees and commissions, to the register and receiver of the district land office, thus permitting entries to be effected without personal attendance at the district office by any parties availing themselves of its provisions.

The act of March 2, 1895 (28 Stat. L., 744; Appendix No. 64, p. 239), provides for additional officers in the Territories, to be known as United States court commissioners, before whom the preliminary affidavits in homestead entries may be made in like manner as provided in the act of May 26, 1890.

The office of United States circuit court commissioner ceased to exist June 30, 1897, under act of Congress of May 28, 1896 (29 Stat., 184, Appendix No. 70, p. 242), which provided for the appointment of United States commissioners by the district court of each judicial district, to have the same powers and perform the same duties as the commissioners of the circuit courts whose office was abolished.

Applicants availing themselves of the privileges of the said acts will be required to transmit with their applications an affidavit setting out specifically why they can not appear at the district office in person to make their preliminary homestead affidavits.

A person in active service in the Army or Navy of the United States, whose family or some member thereof is residing on the land which he wishes to enter, and upon which bona fide settlement and improvement have been made, may by special enactment make the affidavit required by law before the officer commanding in the branch of service in which the applicant is engaged. (Sec. 2293, Rev. Stat.; Appendix No. 1, p. 154.)

A false oath taken before a clerk of a court under section 2294, Revised Statutes, or the proper officer under section 2293, or under the said acts of May 26, 1890, March 2, 1895, and May 28, 1896, is perjury, the same as if taken before the register or the receiver.

Where a wife has been divorced from her husband or deserted, so that she is dependent upon her own resources for support, she can make homestead entry as the head of a family or as a femme sole.

A single woman who makes a homestead entry and marries before making proof does not by her marriage forfeit her right to make proof and receive patent for the land, provided she does not abandon her residence on the land to reside elsewhere. Where two parties, however, unite in marriage, each having an unperfected homestead entry, both entries can not be carried to patent. A residence elsewhere than on the land entered for more than six months at any one time is to be treated as an abandonment of the homestead entry under section 2297, Revised Statutes. (Appendix No. 1, p. 155.)

APPLICATION FOR A HOMESTEAD.

To obtain a homestead the party should select and personally examine the land and be satisfied of its character and true description.

He must file an application, stating his name, residence, and post-office address and describing the land he desires to enter (Form 4–007, p. 274), and make affidavit (Form 4–063, p. 275) that he is not the proprietor of more than 160 acres of land in any State or Territory; that he is a citizen of the United States, or that he has filed his declaration of intention to become such, and that he is the head of a family, or over 21 years of age, as the case may be; that his application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he is not acting as agent of any person, corporation, or syndicate in making such entry nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, and that he has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; and, further, that since August 30, 1890, he has not entered under the land laws of the United States, or filed upon, a quantity of land agricultural in character, and not mineral, which, with the tracts now applied for, would make more than 320 acres, and that he has not theretofore had the benefit of the homestead laws, and must pay the legal fee and that part of the commissions which is payable when entry is made.

On compliance by the party with the foregoing requirements, the receiver will issue his receipt for the fee and that part of the commissions paid (Form 4–137, p. 275), a duplicate of which he will deliver to the party. The matter will then be entered on the records of the district office and reported to the General Land Office.

HOMESTEAD SETTLERS ON UNSURVEYED LANDS.

A homestead settler on unsurveyed public land not yet open to entry must make entry within three months after the filing of the township plat of survey in the district land office. (Act May 14, 1880, 21 Stat. L., 140; Appendix No. 15, p. 174.)

SIMULTANEOUS APPLICATIONS.

In cases of simultaneous applications to enter the same tract of land under the homestead laws, the rule is as follows:

First. Where neither party has improvements on the land the right of entry should be awarded to the highest bidder.

Second. Where one has actual settlement and improvement and the other has not, it should be awarded to the actual settler.

Third. Where both allege settlement and improvements, an investigation must be had and the right of entry awarded to the one who shows prior actual settlement and substantial improvements, so as to

be notice on the ground to any competitor. (Report of General Land Office for 1866, p. 19; also case of Helfrich *v.* King, 3 Copp's L. O., p. 164.)

RESIDENCE OF APPLICANT MUST BE STATED.

The applicant must, in every case, state in his application his place of actual residence and his post-office address, in order that notices of proceedings relative to his entry may be sent him. The register and receiver will note the post-office address on their tract books. (See Rules of Practice No. 14 and No. 17, as amended May 26, 1898.)

INCEPTIVE RIGHTS OF HOMESTEAD SETTLERS.

An inceptive right is vested in the settler by the proceedings hereinbefore described. He must, within six months after making his entry, establish his actual residence in a house upon the land, and must reside upon and cultivate the land continuously in accordance with law for the term of five years. Occasional visits to the land once in six months or oftener do not constitute residence. The homestead party must actually inhabit the land and make it the home of himself and family, as well as improve and cultivate it.

At the expiration of five years, or within two years thereafter, or, in case of entries existing at the date of the act of July 26, 1894 (28 Stat. L., 123; Appendix No. 49, p. 230), within three years thereafter, he may make proof of his compliance with law by residence, improvement, and cultivation for the full period required, and must show that the land has not been alienated except as provided in section 2288, Revised Statutes (sec. 2291, Rev Stat.; Appendix No. 1, p. 154), as amended by section 3 of the act of March 3, 1891 (26 Stat. L., 1095; Appendix No. 44, p. 221).

The period of continuous residence and cultivation begins to run at the date of actual settlement, in case the entry at the district land office is made within the prescribed period (three months) thereafter, or before the intervention of a valid adverse claim. If the settlement is on unsurveyed land the latter period runs from the filing of plat in the district land office. (Act May 14, 1880, 21 Stat., 140; Appendix No. 15, p. 174. See circular of October 21, 1885, 4 L. D., 202.)

CULTIVATION IN GRAZING DISTRICTS.

In grazing districts, stock raising and dairy production are so nearly akin to agricultural pursuits as to justify the issue of patent upon proof of permanent settlement and the use of the land for such purposes.

FINAL PROOF.

A settler desiring to make final proof must file with the register of the proper land office a written notice, in the prescribed form, of his intention to do so, which notice will be published by the register in a newspaper, to be by him designated as nearest the land, once a week for five successive weeks, at the applicant's expense.

Applicants should begin to make their proofs in sufficient time to complete and file them in the local office within the statutory period of seven (or eight) years from date of entry. (See pp. 14 and 34.)

The final affidavits and proof may be made before the register or receiver or before any United States commissioner appointed under

section 19 of the act of May 28, 1896 (29 Stat., 184; Appendix, No. 70, p. 242), for the judicial district embracing the county or parish in which the lands are situated, or before the judge or clerk (not necessarily the clerk in the absence of the judge) of any court of record of the county or parish in which the lands are situated (act May 26, 1890, 26 Stat. L., 121; Appendix, No. 38, p. 213), or before any United States court commissioner appointed under the provisions of the act of March 2, 1895 (28 Stat. L., 744; Appendix, No. 64, p. 239); but the proof can not be made outside of the county, unless before the register or receiver, or unless the lands are situated in an unorganized county, when the proof may be made in an adjacent county, as held in Secretary's decision of October 2, 1890, in case of Edward Bowker, 11 L. D., 361.

Proofs can only be made by the homestead claimant in person, and can not be made by an agent, attorney, assignee, or other person, except that in case of the death of the entryman proof can be made by the statutory successor to the homestead right, in the manner provided by law.

HEIRS OF A HOMESTEAD SETTLER.

Where a homestead settler dies before the consummation of his claim, the widow or, in case of her death, the heirs may continue settlement or cultivation, and obtain title upon requisite proof at the proper time. If the widow proves up, title passes to her; if she dies before proving up and the heirs make the proof, the title will vest in them. (Sec. 2291, Rev. Stat.; Appendix No. 1, 154.)

Where both parents die, leaving infant children, the homestead may be sold for cash for the benefit of such children, and the purchaser will receive title from the United States, or residence or cultivation may continue for the prescribed period, when the patent will issue to the children. (Sec. 2292, Rev. Stat.; Appendix No. 1, 154.)

Upon the death of a homsteader who leaves no widow, but both adult and minor heirs, the right to perfect entry passes alike to all the heirs. See Bernier *v.* Bernier (147 U. S., 242).

A homestead right can not be devised away from a widow or minor children.

In case of the death of a person after having entered a homestead, the failure of the widow, children, or devisee of the deceased to take up residence on the land within six months after the entry, or otherwise to fulfill the demands of the letter of the law as to residence, will not necessarily subject the entry to forfeiture on the ground of abandonment. If the land is cultivated in good faith the law will be considered as having been substantially complied with. (Tauer *v.* The Heirs of Walter A. Mann, 4 L. D., 433.)

HOMESTEAD CLAIMANTS WHO BECOME INSANE.

The rights of a homestead claimant who has become insane may, under act of June 8, 1880, be proved up and his claim perfected by any person duly authorized to act for him during his disability. (21 Stat. L., 166; Appendix No. 18, p. 177.)

Such claim must have been initiated in full compliance with law, by a person who was a citizen or had declared his intention of becoming a citizen, and was in other respects duly qualified.

The party for whose benefit the act shall be invoked must have become insane subsequently to the initiation of his claim.

Claimant must have complied with the law up to the time of becoming insane; and proof of compliance will be required to cover only the period prior to such insanity; but the act will not be construed to cure a failure to comply with the law when the failure occurred prior to such insanity.

The final proof must be made by a party whose authority to act for the insane person during his disability shall be duly certified under seal of the proper probate court.

CONVERSION OF PREEMPTION INTO HOMESTEAD CLAIMS.

A person who has made settlement on a tract and filed his preemption declaration therefor, may change his filing into a homestead if he continues in good faith to comply with the preemption laws until the change is effected; and the time during which he has resided upon and claimed the land as a preemptor will be credited upon the period of residence and cultivation required under the homestead laws. (Acts of March 3, 1877, 19 Stat. L., 404, May 27 and June 14, 1878, 20 Stat. L., 63 and 113; Appendix No. 7, p. 167.) In his first homestead affidavit he must set forth the fact of a previous preemption filing, the time of actual residence thereunder, and the intention to claim the benefit of such time, as provided for in the act. In making final proof on his homestead entry he is required, in addition to the usual affidavit and proof, to make the prescribed "preemption homestead affidavit." (Form 4-071, p. 281.)

LEAVES OF ABSENCE.

There are three laws providing for leaves of absence in certain cases, that of March 2, 1889 (25 Stat. L., 854; Appendix No. 32, p. 187), which provides generally for cases of destruction or failure of crops, sickness, or other unavoidable casualty rendering the settler unable to support himself or persons dependent on him upon the land; that of July 1, 1879 (21 Stat. L., 48; Appendix No. 14, p. 173), providing for the special case of the devastation of grasshoppers; and that of January 19, 1895 (28 Stat. L., 634; Appendix No. 60, p. 236), providing for the relief of homestead settlers who suffered from the forest fires which prevailed in northern Wisconsin, Minnesota, and Michigan during the summer and autumn of 1894.

The third section of the first act provides for permission to be granted in certain cases by the register and receiver of the proper district land office for parties claiming public land as settlers under existing laws to leave and be absent from the land settled upon for a specified period, not to exceed one year at any one time. The applicant for such permission will be required to submit testimony to consist of his own affidavit, corroborated by the affidavits of disinterested witnesses, executed before the register or receiver or some officer in the land district using a seal and authorized to administer oaths, setting forth in detail the facts on which he relies to support his application, and which must be sufficient to satisfy the register and receiver, who are enjoined to exercise their best and most careful judgment in the matter, that he is unable by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty to secure a support for himself or those dependent upon him upon the land settled upon. In case a leave of absence is granted the register and receiver will enter such action on their records, indicating the period for which granted, and promptly report the fact to this office, transmitting the testimony on which their

action is based. In case of refusal the applicant will be allowed the right of appeal on the usual conditions.

The facts to be shown embrace the following, viz:

1. The character and date of the entry, date of establishing residence upon the land, and what improvements have been made thereon by the applicant.

2. How much of the land has been cultivated by the applicant, and for what period of time.

3. In case of failure or injury to crop, what crops have failed or been injured or destroyed, to what extent, and the cause thereof.

4. In case of sickness, what disease or injury, and to what extent claimant is prevented thereby from continuing upon the land; and, if practicable, a certificate from a reliable physician should be furnished.

5. In case of "other unavoidable casualty," the character, cause, and extent of such casualty, and its effect upon the land or the claimant.

6. In each case full particulars upon which intelligent action may be based by the register and receiver.

7. The dates from which and to which leave of absence is asked.

The foregoing is not to be understood as imposing restrictions upon settlers over and above what the statute contains, or to modify the conditions therein prescribed for the enjoyment of the right, but merely to indicate what facts should be set forth in the required affidavits, leaving with the registers and receivers of the several district offices the duty of making application of the law to the particular cases presented, subject, of course, to the supervisory authority of the Department.

The act of 1879, with reference to devastations of grasshoppers, has ceased to bear the importance it originally possessed, no serious grasshopper incursions having occurred of late. The following are the official instructions thereunder:

The first section of said act provides that homestead and preemption settlers on public lands where crops have been destroyed or seriously injured by grasshoppers may leave and be absent from said lands for a period not to exceed one year continuously, under such rules and regulations as the Commissioner of the General Land Office shall prescribe, being allowed afterwards to resume and perfect their settlement as though no such absence had occurred. The second section provides that the time for making final proof and payment by preemptors whose crops had been destroyed or injured as aforesaid may, at the discretion of the Commissioner, be extended for one year. (21 Stat. L., 48; Appendix No. 14, p. 173.)

A settler desiring to take advantage of the provisions of this act should file with the register and receiver a written notice of intended absence, bearing his own signature, and embracing a statement that he had sustained loss or failure of his crops. This should be noted on the tract books for the protection of the claimant and the information of parties who might otherwise make settlement and attempt to obtain title.

Preemption settlers desiring the extension of time provided for in the second section of the act should apply therefor through the same officers, the application to be supported by the same character of proof, which should be made before the register or receiver of the district land office, or before any officer using a seal and authorized to administer oaths.

Upon making final proof the settler having been absent under the first section should file his affidavit, with the affidavits of two or more witnesses, corroborative thereof, stating the particulars of the alleged destruction or serious injury of crops by grasshoppers.

The particulars given should be such as to admit of a decision whether the absence was justified by law or not, and should specifically show at what time the party left the land and when he resumed his settlement.

The affidavits required in cases arising under this section of the act must be made at the same time and place and before the same officer taking the other proofs.

The first section of the act of January 19, 1895, provides for an extension of time of two years within which to make final proof, and excuses temporary absence for any period within two years from the date of the act in all cases where any homestead settler, in the respective districts, was compelled to leave the land settled upon by him because of the prevailing forest fires of the summer and autumn of 1894, and by reason of the destruction of buildings or other property by such fires. The same relief is extended to the heirs of any settler who perished by such fires. Any settler desiring to receive the benefit of these provisions will be required to file in the district land office having jurisdiction over the land embraced in his or her claim an affidavit corroborated by two parties setting forth the number of the entry, if one has been made, and the description of the land; the date of settlement upon the land; the amount and character of the improvements placed thereon; the character and extent of the damage to the settler's property caused by the fire; the date when the same occurred; whether or not the party was thereby obliged to leave the claim, and such other facts as may be relied upon as bringing the party within the scope of the act. Where a homestead settler perished by such fires, the heirs (i. e., the successors to the right under the homestead law, if they desire to receive the benefit of the provisions of said section), or one of them, will be required to furnish evidence consisting of the affidavit of the respective claimants, or, if a minor, of his or her guardian, corroborated by two witnesses, setting forth the number of the entry, if one has been made, and the description of the land; the date of the settlement under which they claim; the character and value of the improvements, and the circumstances attending the death of the settler. The affidavits of the claimant and his corroborating witnesses may be made before any officer authorized to administer oaths using a seal.

Upon receipt of the required affidavits, the district land officers will forward the same to the General Land Office with their joint recommendation in regard to the case. Should the evidence be found satisfactory they will be so advised, whereupon they will make such notes upon their records for their future guidance as will indicate that the parties are entitled to the benefits of the provisions of the first section of the act, and in these cases they will not issue the usual notice of the expiration of time within which to make proof until ten years from the date of the entry, and no contest for abandonment or noncompliance with the law will be allowed against any of the entries until after the expiration of two years from the date of the act. Entrymen temporarily absent for any time within two years from the date of the act will not be required to show any additional period of residence when they make final proof, because of such absence, as the act explicitly directs that such absence shall be deemed constructive residence.

Parties coming under the act whose claims rest upon settlement alone are not relieved from the necessity of making their original homestead entries as heretofore required by the law and regulations in order to protect their settlement rights.

CLIMATIC HINDRANCES.

The proviso annexed to section 2297, Revised Statutes, by amendatory act of March 3, 1881 (21 Stat. L., 511; Appendix No. 23, p. 181, which applies only to homestead settlers, provides that in case such settler has been prevented by climatic reasons from establishing actual residence upon his homestead within six months from date of entry, the Commissioner of the General Land Office may, in his discretion, allow him twelve months from that date in which to commence his residence.

In such case the settler must, on final proof, file with the register and receiver his affidavit, duly corroborated by two credible witnesses, setting forth in detail the storms, floods, blockades by snow or ice, or other hindrances dependent upon climatic causes which rendered it impossible for him to commence residence within six months. A claimant can not be allowed twelve months from entry when it can be shown that he might have established his residence on the land at an earlier day; and a failure to exercise proper diligence in so doing as soon as possible after the climatic hindrances disappear will imperil his entry in case of a contest.

HOMESTEAD CLAIMS NOT LIABLE FOR DEBT AND NOT SALABLE.

No lands acquired under the provisions of the homestead laws are liable for the satisfaction of any debt contracted prior to the issue of patent. (Sec. 2296, Rev. Stat.; Appendix No. 1, p. 155.)

The sale of a homestead claim by the settler to another party before becoming entitled to a patent vests no title or equities in the purchaser as against the United States. In making final proof, the settler is by law required to swear that no part of the land has been alienated except for church, cemetery, or school purposes, or the right of way of railroads, canals, or ditches for irrigation or drainage across it. (Sec. 2288, Rev. Stat., as amended by sec. 3 of the act of March 3, 1891, 26 Stat. L., 1095; Appendix No. 44, p. 221.)

ONLY ONE HOMESTEAD PRIVILEGE TO THE SAME PERSON PERMITTED.

As the law allows but one homestead privilege (sec. 2298, Rev. Stat.; Appendix No. 1, p. 155), a settler relinquishing or abandoning his claim can not thereafter make a second entry, although where the entry is canceled as invalid for some reason other than abandonment, and not the willful act of the party, he is not thereby debarred from entering again if in other respects entitled, and may have the fee and commissions paid on the canceled entry refunded on proper application, under the act of June 16, 1880 (21 Stat. L., 287; Appendix No. 21, p. 179; Hannah M. Brown, 4 L. D., 9; Goist *v.* Bottum, 5 L. D., 643; Jasper N. Shepherd, 6 L. D., 362).

Where a party makes a selection of land for a homestead he must abide by his choice. If he has neglected to examine the character of the land prior to entry, and it proves to be infertile or otherwise unsatisfactory, he must suffer the consequences of his own neglect.

In some cases, however, where obstacles which could not have been foreseen, and which render it impracticable to cultivate the land, are discovered subsequently to entry (such as the impossibility of obtaining water by digging wells or otherwise), or where, subsequently to entry, and through no fault of the homesteader, the land becomes useless for agricultural purposes (as where by the deposit of "tailings" in

the channel of a stream a dam is formed, causing the waters to overflow), the entry may, in the discretion of the Commissioner of the General Land Office, be canceled and a second entry allowed; but, in the event of a new entry, the party will be required to show the same compliance with law in connection therewith as though he had not made a previous entry, and must pay the proper fees and commissions upon the same.

Exceptions to the rule above stated have been made by two statutes of a general character, the acts of March 2, 1889 (25 Stat. L., 854, sec. 2; Appendix No. 32, p. 187), and of December 29, 1894 (28 Stat. L., 599; Appendix No. 59, p. 236). Several statutes of a special character have been enacted having a local application, viz, statutes of March 2, 1889 (25 Stat. L., 1004, secs. 12, 13, 14, and 15; Appendix No. 35, p. 204), February 13, 1891 (26 Stat. L., 759), and March 3, 1893 (27 Stat. L., 563; Appendix No. 46, p. 228), in reference to certain Indian lands in Oklahoma; September 29, 1890 (26 Stat. L., 496, Appendix No. 40, p. 215), in reference to certain forfeited railroad lands; and March 3, 1891 (26 Stat. L., 1043), in reference to the Crow Indian lands in Montana. These statutes make the exception in favor of parties who had made entries prior to the respective dates of approval thereof, leaving the rule to operate unimpaired with respect to cases thereafter arising.

The general act of March 2, 1889 (25 Stat. L., 854, sec. 2), allows in general terms any party who had theretofore made a homestead entry and who had not perfected title thereunder to make another homestead entry, while denying such right to any party who perfects title to lands under the preemption or homestead laws already initiated, and specifically provides that parties who have existing preemption rights may transmute them to homestead entries and perfect title to the lands under the homestead laws, although they may have heretofore had the benefit thereof.

Therefore registers and receivers will not hereafter reject a homestead application on the ground that the applicant can not take the prescribed oath that he has not previously made such an entry, but he will be required to show by affidavit, designating the entry formerly made by description of the land, number and date of entry, or other sufficient data, that it was made prior to the date of said act, and also that he has not since perfected a preemption or homestead title initiated prior to that date. In cases where the former entry was made subsequently to the date of the act, the rule remains unchanged, as given above.

The right to make a second entry under the act of December 29, 1894, extends to such persons as have theretofore forfeited their entries for such reasons as would have entitled them to a leave of absence under section 3, act of March 2, 1889.

The party applying to make second entry will be required to file, in the district land office having jurisdiction over the land he desires to enter, an application for a specific tract of land, and to submit testimony to consist of his own affidavit, corroborated by the affidavits of disinterested witnesses, executed before the register or receiver or some officer in the land district using a seal and authorized to administer oaths, setting forth in detail the facts on which he relies to support his application, and which must be sufficient to satisfy the register and receiver, who are enjoined to exercise their best and most careful judgment in the matter, that his former entry was in fact forfeited by reason of his inability, caused by a total or partial destruction or failure of

crops, sickness, or other unavoidable casualty, to secure a support for himself or those dependent upon him, upon the land settled upon.

The facts to be shown embrace the following, viz:

1. The character and date of the entry, date of establishing residence upon the land, and what improvements were made thereon by the applicant.

2. How much land was cultivated by the applicant, and for what period of time.

3. In case of failure or injury to crop, what crops failed or were injured or destroyed, to what extent, and the cause thereof.

4. In case of sickness, what disease or injury, and to what extent the claimant was thereby prevented from continuing upon the land, and if practicable a certificate from a reliable physician should be furnished.

5. In case of "other unavoidable casualty," the character, cause, and extent of such casualty, and its effect upon the land or the claimant.

6. In each case full particulars upon which intelligent action may be based by the register and receiver.

The foregoing is intended to indicate what facts should be set forth in the required affidavits, leaving with the register and receiver of the several district offices the duty of making application of the law to the particular cases presented.

If the showing made by any party in support of his application under said act is satisfactory to the district land officers, they will allow him to make entry as in other cases.

Parties claiming under any special act will be required to show themselves entitled to the benefit thereof in accordance with such instructions as may be issued thereunder.

In regard to some of these laws instructions have already been prepared. (See pp. 48 and 75.)

ADJOINING FARM HOMESTEADS.

A person possessing the requisite qualifications under the homestead law (not having exhausted his right by previous entry thereunder), owning and residing on land not amounting in quantity to a quarter section, may enter other land lying contiguous to his own to an amount which shall not, with the land already owned by him, exceed in the aggregate 160 acres. For instance, if he has purchased or obtained from the Government (not under the homestead law) or from any other party 40 acres of land he can, under the provisions of the homestead law, enter 120 acres adjoining; if he is the owner of 80 acres he can enter another tract of 80 acres; if he is the owner of 120 acres he can enter 40 acres additional (sec. 2289, Rev. Stat.; Appendix No. 1, p. 153). The party must fulfill the requirements of the homestead law as to residence and cultivation, but will not be required to remove from the land which he originally owned in order to reside upon and cultivate that which he thus acquires under the homestead law, since the whole 160 acres are considered as constituting one farm or body of land, residence upon and cultivation of a portion of which is equivalent to residence upon and cultivation of the whole, except that patent for the adjoining homestead will not be issued until five years from date of entry thereof.

Adjoining farm entries under section 2289 of the Revised Statutes are not to be confounded with additional entries under other statutes. (See p. 27.)

SOLDIERS' AND SAILORS' HOMESTEAD RIGHTS.

Any officer, soldier, seaman, or marine who served for not less than ninety days in the Army or Navy of the United States during the rebellion, and who was honorably discharged and has remained loyal to the Government, and who makes a homestead entry of 160 acres or less on any land subject to such entry, is entitled under section 2305 of the Revised Statutes (Appendix No. 1, p. 156) to have the term of his service in the Army or Navy, not exceeding four years, deducted from the period of five years' residence required under the homestead laws.

If the party was discharged from service on account of wounds or disabilities incurred in the line of duty the whole term of enlistment, not exceeding four years, is to be deducted from the homestead period of five years; but no patent can issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he commenced his improvements. (Sec. 2305, Rev. Stat.; Appendix No. 1, p. 156.)

Similar provisions are made in the act of June 16, 1898 (see appendix No. 79, p. 256), for the benefit of persons who served in the late war with Spain, or during any other war in which the United States may be engaged.

A party applying to make entry under the provisions of section 2304 must file with the register and receiver a certified copy of his certificate of discharge, showing when he enlisted and when he was discharged; or the affidavit of two respectable, disinterested witnesses corroborative of the allegations contained in the prescribed affidavit (Form 4–065, p. 284) on these points, or, if neither can be procured, his own affidavit to that effect.

A SOLDIER MAY FILE A DECLARATORY STATEMENT IN PERSON.

The filing must be accompanied by the oath of the soldier, stating his residence and post-office address, and setting forth that the claim is made for his exclusive use and benefit, for the purpose of actual settlement and cultivation, and not, either directly or indirectly, for the use or benefit of any other person; that he has not theretofore made a homestead entry or filed a declaratory statement under the homestead law; that he is not the proprietor of more than 160 acres of land in any State or Territory, and that since August 30, 1890, he has not entered under the land laws of the United States, or filed upon, a quantity of land, agricultural in character, which, with the tracts applied for, would make more than 320 acres (Form 4–546, p. 283). The fee is $2, except in the Pacific States and Territories, where it is $3.

A SOLDIER'S CLAIM MAY BE FILED BY AN AGENT.

Any such officer, soldier, sailor, or marine may file his claim for a tract of land through an agent, and may have six months thereafter within which to make his actual entry and commence his settlement and improvements upon the land. (Rev. Stat., 2309; Appendix No. 1, p. 157.)

In addition to the oath heretofore prescribed, the oath, in case of filing by an agent, must further declare the name and authority of the agent and the date of the power of attorney or other instrument creating the agency, adding that the name of the agent was inserted therein before its execution. It should also state in terms that the agent has

no right or interest, direct or indirect, in the filing of such declaratory statement. (Form 4–545, p. 283.)

The agent must file (in addition to his power of attorney) his own oath to the effect that he has no interest, either present or prospective, direct or indirect, in the claim; that the same is filed for the sole benefit of the soldier, and that no arrangement has been made whereby said agent has been empowered at any future time to sell or relinquish such claim, either as agent or by filing an original relinquishment of the claimants. (Form 4–545, p. 283.)

As implied by the requirement of the oath, a soldier will be held to have exhausted his homestead right by the filing of his declaratory statement; it being manifest that the right to file is a privilege granted to soldiers in addition to the ordinary privilege only in the matter of giving them power to hold their claims for six months after selection before entry, but is not a license to abandon such selection with the right thereafter to make a regular homestead entry independently of such filing. This is clear from the statutory language. Section 2304 provides that "the settler shall be allowed six months, after locating his homestead and filing his declaratory statement, within which to make his entry and commence his settlement and improvement;" and section 2309 requires him "in person" to "make his actual entry, commence settlement and improvement on *the same*, and thereafter fulfill all the requirements of law." These must be done on "the same" land selected and located by the filing.

The foregoing rule, however, will not be construed to require the rejection of an application to enter the tract filed upon after the lapse of six months, when climatic reasons are shown, which in case of an actual entry would, under the act of March 3, 1881 (21 Stat. L., 511; Appendix No. 23, p. 181), justify an allowance of one year for establishing residence; nor in cases where the failure results from sickness, misfortune, or any insurmountable cause, which shall be properly alleged and satisfactorily shown, and where no adverse right has intervened. Where such cause has prevented entry and an adverse right has been admitted, it will be held proper within the discretion of the General Land Office to allow an entry upon another tract: *Provided*, That it shall be shown to the full satisfaction of the Commissioner that the default was practically beyond the power of the claimant to avoid (circular of December 15, 1882, 1 L. D., 648).

Following the accepted practice in preemption cases, the filing of a declaratory statement will not be held to bar the admission of filings and entries by others; but any person making entry or claim during the period allowed by law for entry of the soldier will do so subject to his right; and the soldier's application when offered within such time will be allowed as a matter of right and the intervening claimant will be notified and afforded an opportunity to be heard.

In case the register and receiver have cause to believe that any filing offered for record is not presented in good faith, they will reject the same, allowing an appeal from their action according to the regular practice.

Entries can not be made for a soldier or sailor by an agent or attorney.

The entry can be made only by the soldier or sailor, and he must commence his settlement on the land within six months after his filing, and must continue to reside on the land and cultivate it for such period as, added to his military or naval service, will make five years. But he must actually reside upon the land at least one year, whatever may have been the period of his military or naval service.

The widow, or, in case of her death or remarriage, the guardian of minor children, may complete a filing made by the soldier or sailor as above, and patent will issue accordingly.

In case of the death of any person who would be entitled to a homestead under the provisions of section 2304, Revised Statutes, his widow, or, in case of her death or remarriage, his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, may make the filing and entry in the same manner that the soldier or sailor might have done, subject to all the provisions of the homestead laws in respect to settlement and improvement; and the whole term of service, or in case of death during the term of enlistment, the entire period of enlistment in the military or naval service shall be deducted from the time otherwise required to perfect the title to the same extent as might have been allowed the soldier. (Sec. 2307, Rev. Stat.; Appendix No. 1, p. 156.)

The ruling hereinbefore stated relative to the widow or minor children of another deceased homestead party as to actual residence is equally applicable to the widow or minor children of a deceased sailor or soldier; if the land is cultivated in good faith the law will be regarded as substantially complied with, although the widow or children may not actually reside upon the land.

In case of widows, the prescribed evidence of military service of the husband must be furnished, with affidavit of widowhood, giving date of the husband's death.

In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or remarriage of the mother must be furnished. Evidence of death may be the testimony of two witnesses or a physician's certificate duly attested. Evidence of marriage may be certified copy of marriage certificate, or of the record of same, or testimony of two witnesses to the marriage ceremony.

Minor orphan children can act only by their duly appointed guardians, who must file certified copies of the powers of guardianship, which must be transmitted to the General Land Office by the registers and receivers with their abstracts of soldiers' declaratory statements.

COMMUTATION OF HOMESTEAD ENTRIES.

If a homestead settler does not wish to remain five years on a tract he may pay for it with cash. Military bounty land warrants, agricultural college scrip, and private land claim scrip may be located in lieu of cash payment.

To entitle a homestead claimant to the land upon making such payment, under section 2301, Revised Statutes, as originally enacted, he must prove his actual settlement, improvement, and cultivation for not less than six months preceding date of proof. Residence on the land must be actual and continuous for the prescribed period.

Parties commuting homestead entries can not be excused from any cause for failure to live upon, improve, and cultivate the land for the required period. They are not obliged to make proof in the short time in which commutation is allowed, and when such proof is made full compliance with law must be satisfactorily shown.

Proof of settlement and cultivation for the prescribed period is to be made in the same manner as in preemption cases. (See pp. 262–263.)

A person commuting a homestead entry by false swearing when he has not actually resided upon the land and improved and cultivated it

as required by law, *forfeits all right to the land and to the purchase money paid*, and in addition thereto renders himself liable to criminal prosecution. (M. F. Soto, 6 L. D., 383.)

The sixth section of the act of March 3, 1891, amends section 2301, Revised Statutes, so as to require that parties proposing to commute their homestead entries to cash shall make proof of settlement and of residence and cultivation of the land for a period of fourteen months from the date of the entry, and the provisions of the section as amended are made to apply to lands on the ceded portion of the Sioux Reservation, in South Dakota, without, however, relieving the settlers thereon from any payments now required by law. (See pp. 61–62 and 223.)

This provision must be enforced in all cases of commutation in which the commuted entry was made after the date of said act, but the right to commute in cases in which the entry was made prior to that date is not affected thereby.

The remarks as to entries under the said section 2301 as originally enacted apply also to entries sought to be made under said section as amended, except as to the period of residence required.

By the act of Congress of June 3, 1896 (29 Stat., 197; Appendix No. 71, p. 243), commutations of homestead entries, prematurely allowed, since the passage of the act of March 3, 1891, in which there was no fraud practiced by the entryman, and there was at least six months' actual residence on the land, are confirmed. By the same act it was provided that the fourteen months' period of residence required for commutation by existing law shall run from the date of settlement, and not from the date of the entry, as was provided by the said sixth section, act of March 3, 1891.

The joint resolution of September 30, 1890, with respect to the extension of time for payment is not applicable to a commuted homestead entry. See case of Stillman B. Moulton, 23 L. D., 304.

For information as to the commutation of entries in Oklahoma see pages 50–60.

The second and third sections of the act of January 19, 1895 (28 Stat. L., 634; Appendix No. 60, p. 236), contain special provisions for the completion of title to lands claimed under the homestead laws which were swept by the forest fires that prevailed in Wisconsin, Minnesota, and Michigan during the summer and autumn of 1894.

The second section provides that homestead settlers whose property was destroyed by such forest fires, or in case the settler perished by the fire, then his or her heirs, or, in other words, the successors to his or her homestead right, as defined in section 2291, Revised Statutes, may, upon satisfactory proof of compliance with the law upon the part of the settler to the date of the fire, and upon payment of the minimum price under existing statutes, receive a patent for the land embraced in the claim of such settler. The procedure in such cases, where the original entry has been made, will be the same as is now required in making homestead proof, except the compliance with the law need be shown only to the date of the fire, and, in addition, proof will be required as to the date of the forest fire and the extent of the damage done to the claimant's property thereby, or, where the settler has perished by the fire, proof as to the time and manner of his death. The payment required to be made for the land is the "minimum price under existing statutes," which in ordinary commutation of homestead entries under section 2301, Revised Statutes, is $1.25 per acre, except where the lands are within the limits of railroad land grants and thereby enhanced in price to $2.50 per acre, and in other cases such amount as

is required by any special laws which may govern the disposal of the specific tracts of land.

In all cases where parties intend to avail themselves of the benefit of the said second section, under claims resting upon settlement alone at the time of the fire, they will be required, when they apply to make the original entry, if such application is not made within three months of the date of the settlement, to file affidavits explaining why such entry had not been made sooner.

Section 3 provides for cases in which the forest fires only partially burned the timber on the homestead, and the settler may desire to purchase only a portion thereof, retaining the remainder to be perfected under the general provisions of the homestead laws.

In such cases, and when the quantity of timber burned does not exceed 75,000 feet of merchantable green timber, the entryman may file with the register and receiver of the district in which his claim lies a sworn statement setting forth the fact that the timber on his claim was destroyed or injured by the forest fires during the summer and autumn of 1894, giving a description of his entry, the date and number thereof, and a description of each of the smallest legal subdivisions of his claim upon which the green timber has been injured or destroyed by said fires, together with an estimate of the amount of such timber so injured or destroyed upon each of said smallest legal subdivisions; also that he has complied with the requirements of the homestead law up to date. This statement must be corroborated by two witnesses who have actual knowledge of the conditions existing on the claim. The entryman must designate which of the legal subdivisions of his claim on which the timber was burned he desires to purchase under this act, and with his application to purchase and sworn statement above required he must tender the necessary amount of money to complete the purchase at the minimum price per acre.

ACT OF JUNE 15, 1880.

A further right of making cash payment for lands originally entered as a homestead accrues under the act of June 15, 1880 (21 Stat. L., 237; Appendix No. 20, p. 178), which allows any party who had entered a homestead prior to that date (or any person to whom such party may have attempted to transfer his right by a bona fide instrument in writing) to pay the Government price (less the fee and commissions) for the land covered by such entry, provided it was originally subject to entry, and provided it had not been subsequently entered by any other person under the provisions of law (Maughan, 1 L. D., 25; Weaver, *id.*, 53; Miller, *id.*, 57; Bishop, *id.*, 69; George E. Sandford, 5 L. D., 535). He can not, however, be permitted to exercise such right so as to bar the preferred right of a contestant under act of May 14, 1880 (21 Stat. L., 140; Appendix No. 15, p. 174), after contest initiated (Freise *v.* Hobson, 4 L. D., 580).

In case the original homestead party applies to purchase, if he has lost his duplicate receipt he must make oath that he has not, prior to the passage of said act, transferred nor attempted to transfer his homestead rights under said entry, and that he has not assigned his right to receive the repayment of the fees, commissions, and excess payments paid thereon. The register will certify to the receiver the amount to be allowed as credit for fees and commissions already paid, the applicant first making oath that said fees and commissions have not been repaid and that no application for such repayment has been made. In case

he had attempted to transfer his right he may still be permitted to purchase upon filing proof of the consent of the person to whom such transfer was attempted to be made.

ATTEMPTED TRANSFER OF HOMESTEAD RIGHT.

In case a party to whom a homestead settler has attempted to transfer his right desires to take advantage of the act, the register and receiver will require the instrument in writing by which it was sought to transfer such homestead right to be filed, together with the best evidence attainable of the bona fide character of the transfer, including the affidavit of the party who seeks to purchase.

In case of doubt as to the propriety of allowing the application to purchase, they should refer all the papers to the General Land Office, accompanied by an expression of their opinion based upon a full recital of the facts.

FORM OF ENTRY.

The application must be made as in ordinary cash entry (Form 4–001, p. 271) and must be accompanied by the receiver's duplicate homestead receipt, or, if that has been lost or destroyed, by an affidavit setting forth such fact and giving the register's and receiver's number and date of the original homestead entry. It must also be stated in the application that the same is made under the second section of the act of June 15, 1880.

Final homestead proof not being required in these cases, no advertisement or notice of intention to make final proof is necessary, and no final homestead fees are to be paid or collected.

Warrants and scrip made receivable by law for lands subject to sale at private entry or in commutation of homestead or preemption rights are receivable for lands purchased under this act.

Where land purchased under this act is paid for with warrants or scrip there would be no claim for repayment on account of the fee and commissions paid on the original homestead entry; and the existing rule must be observed, that where the value of warrants or scrip exceeds that of the lands entered therewith no repayment on account of such excess is authorized, but the warrant or scrip applied must be fully surrendered. (See "Warrant locations.")

ADDITIONAL HOMESTEAD ENTRIES.

The election of a qualified party, when filing for a homestead, to take less than the law allows him is construed as a waiver of his claim for a larger quantity, and he can not make up the difference by an additional entry, except in cases where subsequent legislation has provided therefor.

Additional homestead entries are allowed by several acts of Congress. The act of March 2, 1889 (25 Stat. L., 854; Appendix No. 32, p. 187), is of a general nature as regards the parties to be benefited, and there are a number of special statutes allowing such additional entries for the benefit of certain classes of claimants, viz: Section 2306, Revised Statutes (Appendix No. 1, p. 156), providing for soldiers' additional homestead rights in certain cases; and acts of March 3, 1879 (20 Stat. L., 472); July 1, 1879 (21 Stat. L., 46), and May 6, 1886 (24 Stat. L., 22; Appendix Nos. 11, 13, 28, pp. 171, 172, 183), for the benefit of settlers within the limits of land grants for railroads.

The first-mentioned act contains two sections that provide for additional entries, as follows:

1. The fifth section provides for an additional entry of land which shall be contiguous to the land embraced in the original entry, for which the final proof of residence and cultivation made on the original entry shall be sufficient, but of which no party shall have the benefit who does not, at the date of his application therefor, own and occupy the land covered by his original entry, and which shall not be permitted, or if permitted shall be canceled, if the original entry should fail, for any reason, prior to patent, or should appear to be illegal or fraudulent. Applicants for additional entries under this section will be required to produce evidence that they own and occupy the land embraced in their original entries, to be properly described by legal subdivisions and by reference to the number and date of the original entry, and the evidence to consist of their own affidavits, corroborated by the affidavits of disinterested witnesses, executed before the register or receiver or some officer in the land district using a seal and authorized to administer oaths. In addition to this, the proper homestead application and affidavit must be filed, which should be on Forms 4-018 and 4-063, respectively (pp. 282 and 275), properly modified so as to show the section and act under which application is made, and the affidavit modified by referring to the original entry on which the additional is based, and setting forth that the applicant owns and occupies the land covered thereby.

2. The sixth section admits of an additional entry of land, which need not be contiguous to the land embraced in the original, by parties who have complied with the conditions of the law with regard to the original entry and have had the final papers issued therefor, and with the condition of residence and cultivation of the land embraced in the additional entry, to be made and proved as in ordinary homestead entries.

Application and affidavit will be required in entries under this section (6), and the same forms (4-018 and 4-063, pp. 282 and 275) may be used as above stated in reference to entries under the fifth section. The affidavit should set forth the description of the tract embraced in the former entry, the date when, and the office where made, but it need not be shown that the applicant owns and occupies the land covered thereby.

The right to make entry under section 5, act of March 2, 1889, extends only to cases where the original entry was made before the passage of the act, but the right to make entry under section 6 thereof extends to cases where the original entry was made either before or after the passage of said act, if the application is otherwise within the terms of said section. (Case of Nancy A. Stinson, 25 L. D., 113.)

In additional entries under both sections the usual homestead fees and commissions will be required to be paid, and receipts will be issued therefor. Notes will be made on the entry papers and opposite the entries on the monthly abstracts referring to the section and the act under which allowed.

Neither of these additional entries is to be confounded with the adjoining farm homestead provided for by another statute. (See p. 21.)

Among the several acts above mentioned as allowing additional entries to be made to complete the maximum quantity of 160 acres, with prescribed conditions, differing more or less in their requirements, the later acts contain no terms to repeal the earlier acts, and there is no such repugnance in their provisions as would work a repeal by implica-

tion. Parties entitled to claim under one or another of the acts may elect under which to proceed, and their claims will be adjusted according to the provisions of the acts under which they respectively elect to proceed.

ADDITIONAL HOMESTEAD ENTRIES UNDER SPECIAL ACTS.

SOLDIER'S ADDITIONAL HOMESTEAD ENTRY.

Any officer, soldier, seaman, or marine who served for not less than ninety days in the Army or Navy of the United States during the rebellion, who had, prior to June 22, 1874, the date of approval of the Revised Statutes, made a homestead entry of less than 160 acres, may enter an additional quantity of land, adjacent to his former entry or elsewhere, sufficient to make, with the previous entry, 160 acres. (Rev. Stat., 2306; Appendix No. 1, p. 156.) This right was extended by section 2307, Revised Statutes, to the widow, if unmarried; otherwise to the minor orphan children by proper guardian.

The exercise of this right was formerly regarded as a personal one, and not transferable, but under authority of the decision of the Supreme Court of the United States in the case of Webster *v.* Luther (163 U. S., 331) it is now held to be assignable without restriction.

The party desiring to make an additional entry, and being entitled thereto, must make his application at the land office of the district in which the land he wishes to enter is situated, in the same manner as in case of an original entry. (Form No. 4-008, p. 284.)

In addition to the usual homestead affidavit the claimant must make a special affidavit showing—

First. His identity as the soldier he represents himself to be, reciting his military service and stating his present residence and post-office address.

Second. The facts in detail, setting forth his right to make additional entry. Proper reference must be made to the original homestead entry, giving the name of the district office wherein it was made, the date and number of the entry, and the description of the land.

Third. That he has not in any manner previously exercised his additional right, but that the same remains in him unimpaired.

The foregoing affidavits must be sworn to *and subscribed* in the presence of the register or receiver, or other officer authorized to administer oaths in homestead entries, and the officer administering the oath must certify to the identity and credibility of the party appearing before him.

An application to make an additional entry, not accompanied by a certificate of right from this office, must be forwarded by the local land office to this office for consideration and for instructions relative to allowing the entry. Proper notation should be made by the local officers on their records, showing the pendency of such application and the consequent segregation of the land. (See Appendix, circular letters of February 18, 1890, and December 4, 1896, pp. 259-260, respectively.)

The foregoing rules will not be deemed to apply to cases where the right to an additional entry, under the practice formerly prevailing, has been certified by the General Land Office. Certificates issued under the practice formerly prevailing will be recognized, and entries allowed according to such practice.

The register and receiver will, after the entry is authorized, require the party to pay the same fee and commissions as in cases of original

entry; the receiver will issue his receipt for the money paid, and these papers will receive the current date and the proper numbers in their homestead series. Then, to complete the transaction—it being an object, for the convenience of business, that the additional entry papers and the final papers therefor in such cases shall be kept separate and distinct—the party will make payment of the usual final commissions on the entered tract, for which the receiver will issue his receipt; the register will thereupon issue his final certificate for the additional tract (Form 4–197, p. 285), the receipt and certificate to bear their proper numbers in the final homestead series, likewise a reference to the original entry and to the final certificate thereon by their numbers, and also by their district where the party's first entry shall have been made in a different district.

By the act of March 3, 1893 (27 Stat. L., 593; Appendix No. 52, p. 232), provision is made that where soldiers' additional homestead entries have been made or initiated upon a certificate of the Commissioner of the General Land Office of the right to make such entry, and the certificate of right is found to be erroneous or invalid for any cause, the party in interest thereunder on making proof of his purchase may, if there is no adverse claimant, perfect his title by payment of the Government price for the land, but no person may acquire more than 160 acres through the location of any such certificate.

By the act of August 18, 1894 (28 Stat. L., 397; Appendix No. 56, p. 234), all certificates of right, regularly issued by the General Land Office, showing that the parties named therein are entitled to make soldiers' additional homestead entries, are declared to be valid notwithstanding any attempted sale or transfer. Where such certificates have been or may hereafter be sold or transferred, the sale or transfer thereof is not to be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value, and all entries made by such purchasers therewith shall be approved and patent shall issue in the names of the assignees, but before approving such entries for patent the transferee shall file in this office satisfactory proof of ownership and of bona fide purchase for value.

To enable assignees of these certificates to exercise in their own names the right of entry confirmed by this statute it is directed that the certificate itself shall in each instance prior to any entry by the assignee be presented to the General Land Office for examination and additional certification covering the fact of assignment. Holders of such certificates desiring to exercise a right of entry in their own names must file such certificates in the General Land Office, together with satisfactory proof of ownership and of bona fide purchase for value. If, upon examination, the proof so filed is satisfactory, an additional certificate will be attached to the original authorizing the location thereof, or entry of land therewith, in the name of the assignee or his assigns.

To prevent confusion and provide a uniform rule for the transfer and assignment of soldiers' additional certificates recertified to owners and bona fide purchasers under said act the following mode of procedure should be observed:

1. The assignment may be written or printed upon a separate sheet or sheets of paper, to be securely attached to the package of papers constituting the certificate.

2. Each assignment must be duly attested and acknowledged as prescribed by the circular of February 18, 1896 (p. 1, Subdivision I, paragraphs 4, 5, 6, and 7), respecting the assignment of bounty land

warrants, and the officer taking the acknowledgment must certify that at the date of the assignment the certificate was attached to said assignment and was in the possession of and presented by the assignor.

3. The forms printed on pp. 300–1 are prescribed for use in making assignments. These forms, or others containing the substantial matter thereof, will be accepted as a compliance with these instructions.

This law does not prohibit the location of said certificates by the holders as heretofore, either by the soldiers in person or by others acting as attorneys for the soldiers and in the names of the soldiers. Therefore, when application is made to locate such a certificate by the holder in the name of the soldier the entry of land under said certificate will be allowed if the application papers are regular in all other respects, and the homestead papers and final certificate and receipt will be issued in the name of the soldier under the instructions heretofore given in reference to such cases, which are still operative.

All applications to locate certificates of additional homestead right must describe a particular tract and be presented at the local land office having jurisdiction over the land desired to be entered, and must be accompanied by the usual nonmineral affidavit.

The instructions above given relative to certificates of right recertified under act of August 18, 1894 (28 Stat., 397), apply with equal force as to the requisites of assignments of uncertified additional homestead rights, and the forms of assignment prescribed therein may be modified so that the same shall contain the substantial matter thereof.

An assignee of an uncertified right desiring to make an additional entry under this section must present his application as the assignee of the soldier for a specific tract of land to the register and receiver at the local office in whose jurisdiction the land lies, accompanying the same by a complete assignment duly executed, attested, and acknowledged as prescribed respecting the assignment of bounty land warrants. The identity of the original assignor with the soldier and original entryman must be established by the affidavits of two witnesses having personal knowledge of the facts, or, if such witnesses can not be procured, a satisfactory reason must be given and other facts presented tending to establish such identity.

The applicant must furnish his affidavit of bona fide ownership at the date of the application, evidence of his citizenship, the usual nonmineral affidavit, and the affidavit of the soldier showing that he has in no manner exercised his homestead right since making the original entry, either by making an additional entry under said section or under any other act.

The required affidavits must be sworn to and subscribed in the presence of the register or receiver or other officer authorized by law to administer oaths in homestead cases, and the officer administering the oath must certify to the identity and credibility of the party appearing before him.

ADDITIONAL HOMESTEAD ENTRIES WITHIN RAILROAD LIMITS.

Homestead settlers within the limits of grants for railroads or wagon roads, except grants of even sections in Alabama, Mississippi, and Louisiana, who were restricted to 80 acres by law previous to March 3, 1879 (or in Missouri and Arkansas prior to July 1, 1879), may enter an additional 80 acres adjoining the land embraced in the original entry, if such additional land is subject to entry; or if the party so elects he may surrender his original entry and make a new entry for 160 acres

elsewhere. (Acts March 3, 1879, 20 Stat. L., 472; July 1, 1879, 21 Stat. L., 46; Appendix Nos. 11 and 13, pp. 171 and 172.)

The following paragraphs I and II are here presented in explanation of the history of the legislation just referred to, viz:

I. The laws extending the homestead privilege, embraced in sections 2289 to 2312 of the Revised Statutes, give to every citizen, and to those who have declared their intention to become citizens, the right to a homestead on *surveyed* lands, since extended to *unsurveyed* lands by act of May 14, 1880 (Appendix No. 15, p. 174). This right was limited by section 2289 of the Revised Statutes, as the maximum quantity, to 160 acres of the class of ordinary public lands held by law at $1.25 per acre, when disposed of to cash purchasers, or 80 acres of the class of lands embraced in the alternate sections along the lines of railroads or other works of internal improvement reserved to the United States in acts of Congress making grants of lands in aid of the construction of such works, and the price thereof increased to $2.50 per acre. By act of Congress of March 3, 1879, it was enacted that from and after its passage "the *even* sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of 160 acres to each settler," thus doing away in this class of entries with the distinction between ordinary minimum and double minimum lands, or lands held at $1.25 per acre and lands held at $2.50 per acre, which had existed under section 2289 of the Revised Statutes of the United States, so far as the double minimum lands may be found in *even* sections within the limits of land grants for railroads or military roads. These provisions did not extend so as to embrace any double minimum lands in *odd* numbered sections or in the limits of grants for any other description of public works. By act of July 1, 1879, the same provisions were extended to the *odd* sections in the States of Missouri and Arkansas, where the *odd* sections were reserved to the United States, the price of the lands therein enhanced, and the *even* sections granted for the purposes of improvement. Both acts were inoperative in any case where the even sections were granted, the *odd* being reserved, and not within the States of Missouri and Arkansas, as in certain grants in Alabama, Mississippi, and Louisiana; but the double minimum lands in the two last-mentioned States having been brought into market at the enhanced price prior to January 1, 1861, are now reduced to $1.25 per acre under the third section of the act of June 15, 1880.

II. The act of March 3, 1879, in addition to its provision already referred to, provides, first, that "any person who has under existing laws taken a homestead on any even section within the limits of any railroad or military-road land grant, and who by existing laws shall have been restricted to 80 acres, may enter under the homestead laws an additional 80 acres adjoining the land embraced in his original entry, if such additional land be subject to entry," without payment of fees and commissions, and that "the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional entry, and shall be deducted from the five years' residence required by law," with the proviso, however, that in no case shall patent issue "until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land" embraced in his additional entry "at least one year." The act of July 1, 1879, is similar in effect as regards persons who had taken

homesteads on the odd-numbered sections reserved from such grants in Missouri and Arkansas.

The right to make an additional entry under these acts or to surrender the original entry and make a new one descends to the statutory successor to the original homestead right, but is not subject to sale or assignment. The additional or the new entry, as the case may be, can be made only by the homestead claimant, or, if he be dead, by the widow, devisee, or other successor to the right.

An entry may be made under these acts, although the original entry was commuted by cash payment.

A woman who has married since making original entry is not thereby disqualified from making an additional entry under these acts.

A person making additional entry of 80 acres or new entry after surrender and cancellation of his original entry can do so without payment of further fees and commissions. (Acts March 3, 1879, 20 Stat. L., 472, and July 1, 1879, 21 Stat. L., 46; Appendix Nos. 11 and 13, pp. 171 and 172.)

Where additional entry is made on lands adjoining an original entry upon which proof has been made no further proof or payment is required additional to the proof and payment already made on the original entry. (Act May 6, 1886, 24 Stat. L., 22; Appendix No. 28, p. 183.)

But in case of an additional entry, when proof on the original entry has not been made, the proof and payment to cover both the original and additional entry must be made at the same time and in the same manner, and where a party surrenders his original entry and makes a new one he must comply with the law in respect to residence, improvement, and cultivation for such period as, with his residence on the original tract, will make five years, and he must, in any event, reside upon, improve, and cultivate the land embraced in the new entry for at least one year.

In applying for an additional entry the party must make affidavit before the register or receiver, or other officer authorized to administer oaths in homestead cases, describing the tract upon which he resides. (Form 4–086, p. 282.) If final proof on the original entry has not been made, he must submit proof setting forth the particulars of his existing entry and of his compliance with legal requirements regarding the same (Form 4–369, p. 278), and he must make application according to Form 4–018, page 282.

The applicant for an additional homestead entry must swear that he did not serve in the Army or Navy of the United States for ninety days or more; for persons who thus served were not restricted to 80 acres under previously existing laws, and consequently are not entitled to the benefits of the acts amending said laws approved March 3, 1879, and July 1, 1879.

In order to entitle a homestead entryman to an additional entry under the act of March 3 or July 1, 1879, and to a patent for such additional entry under the act of May 6, 1886, his original entry must be a valid, bona fide entry, and the proofs presented in support thereof must have been accepted by this office.

Registers and receivers will therefore in no case (except where patent has issued on the original entry) issue a final certificate on the additional entry until they have been advised by this office that final proof on the original entry has been approved and the additional entry accepted. When so advised they will issue final certificate on the additional entry, without cost to the entryman, and forward the same to this office. (Circular of July 26, 1886, 5 L. D., 128.)

PARTIAL WAIVER OF HOMESTEAD RIGHTS.

The election of a qualified party, when filing for a homestead, to take less than the law allows him, is construed as a waiver of his claim for a larger quantity; and the same in case of an adjoining farm entry or soldier's additional entry.

(But when an additional homestead claim was filed for 40 acres by a homesteader whose original entry was 120 acres, and 40 acres of this original entry had been canceled, but notice of the cancellation had not reached him when he filed for the additional 40 acres, this was not considered a waiver of the full amount, since he filed for all that he supposed was due him.)

The acts of March 3 and July 1, 1879 (providing that a person who had taken a homestead to the extent of 80 acres within the granted limits of a railroad grant, on the alternate sections belonging to the Government, might enter an additional contiguous 80 acres), are not construed as allowing a person who elected to take but 40 acres under the original homestead law to take an additional 120 acres under these amendatory acts.

INDIAN HOMESTEADS.

By the provisions of the Indian appropriation act of July 4, 1884 (23 Stat. L., 96; Appendix No. 27, p. 183), any Indians who might then be located on public lands, or should thereafter so locate, may avail themselves of the privileges of the homestead laws as fully and to the same extent as citizens of the United States, but without payment of fees or commissions on account of such entries or proofs.

Indian homesteads can not be commuted and are not subject to sale, assignment, lease, or incumbrance. All patents issued for Indian homesteads under this act must be of the legal effect and declare that the United States does and will hold the land thus entered for the period of twenty-five years in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs, according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian or his widow and heirs, as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.

When any Indian applies to enter land under said act he will be allowed to do so without payment of fees or commissions, but will be required to furnish a certificate from the agent of the tribe to which he belongs that he is an Indian of the age of 21 years, or the head of a family, and not the subject of any foreign country.

FIVE-YEAR NOTICE, SEVEN-YEAR NOTICE, AND EIGHT-YEAR NOTICE.

Registers and receivers will notify homestead claimants, on the expiration of the five-year period, the seven-year period, and the eight-year period, according to Forms 4–343 and 4–344 (p. 286), modified when necessary. The eight-year notice is to be given in all entries made prior to or on July 26, 1894, while the seven-year notice is to be given on entries made after that date.

HOMESTEAD FEES AND COMMISSIONS.

The land office fees and commissions payable when application is made are as follows:

	Land at $2.50 per acre.	Land at $1.25 per acre.
In Alabama, Arkansas, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin (Rev. Stat., 2238; Appendix No. 1, p. 144):		
For 160 acres	$18.00	$14.00
For 80 acres	9.00	7.00
For 40 acres	7.00	6.00
In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming (Rev. Stat., 2238, par. 12; Appendix No. 1, pp. 144-145):		
For 160 acres	22.00	16.00
For 80 acres	11.00	8.00
For 40 acres	8.00	6.50

The land office fees and commissions payable at the time of making final proof are as follows:

	Land at $2.50 per acre.	Land at $1.25 per acre.
In Alabama, Arkansas, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin (Rev. Stat., 2238; Appendix No. 1, p. 144):		
For 160 acres	$8.00	$4.00
For 80 acres	4.00	2.00
For 40 acres	2.00	1.00
In Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming (Rev. Stat., 2238, par. 12; Appendix No. 1, pp. 144-145):		
For 160 acres	12.00	6.00
For 80 acres	6.00	3.00
For 40 acres	3.00	1.50

NECESSARY TIMBER ON PUBLIC LANDS.

Homestead or preemption claimants who have made bona fide settlements upon public land, and who are living upon, cultivating, and improving the same in accordance with law and the rules and regulations of this Department with the intention of acquiring title thereto, are permitted to cut and remove, or cause to be cut and removed, from the portion thereof to be cleared for cultivation, so much timber as is actually necessary for that purpose or for buildings, fences, and other improvements on the land entered.

In clearing for cultivation, should there be a surplus of timber over what is needed for the purposes above specified the entryman may sell or dispose of such surplus; but it is not allowable to denude the land of its timber for the purpose of sale or speculation before the title has been conveyed to him by patent.

The abandonment of a settlement claim after the timber has been removed is presumptive evidence that the claim was made for the primary purpose of obtaining timber.

Squatters upon public lands have no right to cut timber therefrom for any purpose.

In reference to timber on the public lands in the States of Colorado, Montana, Idaho, North Dakota, South Dakota, Utah, Wyoming, and

Nevada, the district of Alaska, and the Territories of Arizona and New Mexico, see rules and regulations governing the use of timber on the public domain, issued under section 8, act of March 3, 1891, page 109, and under section 11, act of May 14, 1898, in reference to Alaska, page 126.

TIMBER CULTURE.

By the first section of the act of March 3, 1891 (26 Stat. L., 1095; Appendix No. 44, p. 221), the laws providing for the entry of public lands for timber-culture purposes are repealed so far as regards future entries, but continued, with certain prescribed modifications, as regards the adjustment of existing claims initiated prior to such repealing act. Hence, no further entries of this class will be allowed unless the right to make such entry had accrued or was accruing at the date of said act. In dealing with existing claims the provisions of the first section of the repealing act will be observed, presenting the following modifications, viz:

1. The following words of the last clause of section 2 of the act of June 14, 1878 (20 Stat. L., 113; Appendix No. 8, p. 167), namely, "That not less than twenty-seven hundred trees were planted on each acre." are repealed.

2. In computing the period of cultivation, the time shall run from the date of the entry if the necessary acts of cultivation were performed within the proper time.

3. The preparation of the land and the planting of trees shall be construed as acts of cultivation, and the time authorized to be so employed and actually employed shall be computed as a part of the eight years of cultivation required by statute.

4. It will be seen that by the fifth proviso of that section the right is extended to persons having certain qualifications to commute their entries in certain cases at the rate of $1.25 per acre. For this purpose it will be necessary—

First. That the person shall have in good faith complied with the provisions of the timber-culture laws for four years immediately preceding his offer of proof.

Second. That he shall be an actual, bona fide resident of the State or Territory in which said land is located.

Final proof for the commutation of timber-culture entries under this provision shall be made as other final timber-culture proof is made (see Forms 4–073*a*, 4–385, and 4–386, pp. 289, 286 and 288), and shall satisfactorily exhibit the facts necessary to entitle the applicant to make purchase thereunder. For final proof in timber-culture entries, the registers and receivers shall be allowed the same fees and compensation as are allowed under previously existing laws in homestead entries. (See tenth and twelfth subdivisions sec. 2238, Rev. Stat.; Appendix No. 1, p. 144, and act of March 3, 1877, 19 Stat. L., 403; Appendix No. 5, p. 165).

5. All bona fide claims lawfully initiated before the passage of said act of March 3, 1891, may be perfected upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if said act had not been passed.

Congress, by act of March 3, 1893 (27 Stat. L., 593), entitled "An act making appropriation for sundry civil expenses of the Government for

the fiscal year ending June thirtieth, eighteen hundred and ninety-four, and for other purposes," enacted as follows, viz:

That section one of an act entitled "An act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one, be, and hereby is, amended by adding the following words to the fourth proviso thereof: *And provided further*, That if trees, seeds, or cuttings were in good faith planted as provided by law, and the same and the land upon which so planted were thereafter in good faith cultivated as provided by law for at least eight years by a person qualified to make entry and who has a subsisting entry under the timber-culture laws, final proof may be made without regard to the number of trees that may have been then growing on the land.

Under this enactment parties may make final proof without showing the existence of the quantity and character of trees on the land at the time of their doing so, as required under the previously existing law, provided that it be made to appear in the proof—

1. That trees, seeds, or cuttings were in good faith planted according to the requirements of the timber-culture laws as amended by the first section of the act of March 3, 1891, before mentioned.

2. That the trees, seeds, or cuttings so planted and the land upon which they were so planted were in good faith cultivated for at least eight years in manner prescribed in the timber-culture laws.

3. That the claimant was qualified to make entry under said laws.

4. That he has an entry subsisting thereunder.

5. That the facts of the case are such as to show the claimant's good faith in his proceedings under the statutes.

Five acres on a quarter section must be broken or plowed the first year after entry and 5 acres the second year. The second year the first 5 acres must be cultivated to crop or otherwise. The third year the second 5 acres must be cultivated to crop or otherwise, and the first 5 acres must be planted in timber, seeds, or cuttings. The fourth year the second 5 acres must be planted in timber, seeds, or cuttings. Ten acres are thus to be plowed, planted, and cultivated on a quarter section, and the same proportion when less than a quarter section is entered. The whole 10 acres or the due proportion thereof must be prepared and planted within four years from the date of the entry, 5 acres being prepared the first and second years and planted the third year, and 5 acres being prepared the second and third years and planted the fourth year.

The preparation of the ground by breaking and cultivation to crops must be thorough. The plowing must be done at the proper season of the year and must be sufficiently deep to thoroughly break and mix the soil, and the cultivation to crop must be actual and bona fide. The object of the law is to promote the cultivation of timber, and land not made fit, by careful and thorough preparation, to produce a growth of trees is not prepared as contemplated by law, and a failure to strictly comply with the law renders the entry liable to contest.

Trees, tree seeds, or cuttings must be of suitable character to germinate and grow with proper cultivation, and must be carefully and properly set out or planted, and at a proper season of the year to insure growth, and must be carefully and thoroughly cultivated.

Where land is selected for timber-culture entry which in its natural state will not produce trees without irrigation, the ground will not be regarded as properly prepared nor the trees as properly cultivated unless the land is irrigated and the trees kept watered.

Where the ground is properly prepared and cultivated, and the planting of suitable trees, seeds, or cuttings is well and seasonably done, and the same should not germinate and grow, the ground must be

replanted and vacancies filled the same or next succeeding season. If the trees, seeds, or cuttings are destroyed by grasshoppers or by extreme and unusual droughts, the time of planting may be extended one year for every year of such destruction, upon the filing in the local office of an affidavit by the entryman, corroborated by two witnesses, setting forth the destruction and asking the extension of time provided for by the act.

The offering of relinquishments for sale after entry will be regarded and treated as evidence tending to prove the fraudulent or speculative character of the entry.

The following classes of trees are recognized as "timber" within the meaning of the law, viz: Ash (including mountain ash, or service tree), alder, basswood, beech, birch, box elder, black walnut, butternut (otherwise called white walnut), cedar, chestnut, cottonwood, elm, fir, hickory, honey locust, larch, maple, oak, pine, spruce, sycamore (otherwise called buttonwood or cotton tree), white willow, whitewood (or tulip tree), and other trees recognized in the neighborhood as of value for timber, for firewood or domestic use, or for commercial purposes. Fruit trees, hedges, and shrubbery can not be classed as "timber," and their cultivation is not sufficient to satisfy the demands of the law.

Final proof can not be made until the expiration of eight years from date of entry, and may be at any time within five years thereafter if cultivation has been made for the proper period.

Perfect good faith must be shown by claimants. If trees, seeds, or cuttings are destroyed they must be replanted; and not only must trees be planted, but they must be protected and cultivated in such manner as to promote their growth.

Hereafter parties desiring to offer final proof in timber-culture cases will be required to file a notice of their intention with the register of the proper district land office, and the same shall be published in the same manner as in homestead and preemption cases.

In making final proof the claimant (or, if he be dead, his heirs or legal representatives) must appear in person with at least two witnesses at the land office of the district in which the land is situated and there make the necessary proofs; or the affidavit of the party may be made and his testimony and the testimony of his witnesses given before any commissioner of the United States district court having jurisdiction over the county or parish in which the land is situated, under act of May 28, 1896 (29 Stat., 184; Appendix No. 70, p. 242), or before the judge or clerk of any court of record of such county or parish, or in the Territories the proof may be taken by a United States court commissioner as provided by act of March 2, 1895 (see Appendix No. 64, p. 239), but all the proof must be taken at the same time and place, before the same officer, in such land district (11 L. D., 361).

The officer administering the oath or taking the testimony must certify to the identity and credibility of the party appearing before him.

The foregoing requirements are modified by the act of March 4, 1896 (29 Stat., 43, Appendix No. 68, p. 242), under which the personal testimony of the claimant in final proof in timber-culture entries may be taken by a United States commissioner or a clerk of any court of record, wherever the claimant may happen to be, but the testimony of the witnesses must be taken in the same manner and under the same restrictions provided by previous laws. (Circular March 25, 1896, 22 L. D., 350.)

The proof must set forth specially and in detail all the facts of the case, showing when cultivation was commenced, the acts performed, amount of land plowed, cultivated, and planted, what was done in each

year, the total number of trees planted, the total number growing, and their size and condition at date of proof, and any other facts or circumstances material to the case (Forms 4–385 and 4–386, pp. 286 and 288). While the law does not prescribe that any definite number of trees, seeds, or cuttings shall be planted, or that any particular number shall be growing at date of final proof, this information should be furnished to enable this office to judge of the claimant's good faith.

Contests may be instituted against timber-culture entries for failure to comply with the law after entry, or for any sufficient cause affecting the legality or validity of the entry or proof.

Contestants of timber-culture entries are not now required to file an application to enter the land at the time of the initiation of contest, but the successful contestant secures a preference right of entry under the second section of the act of May 14, 1880, 21 Stat. L., 140. (This regulation overrules the decision in Bundy *v.* Livingstone, 1 L. D., rev. ed., 152.)

No land acquired under the provisions of the act of June 14, 1878, will in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

Claimants and witnesses making final proof must in all cases state their place of actual residence, their business or occupation, and their post-office address. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if residence is in a city the street or number must be given.

Nothing herein will be construed to have a retroactive effect in cases where the official regulations of this Department in force at the date of entry were complied with.

DESERT LANDS.

The act of March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories" (19 Stat. L., 377; Appendix, No. 4, p. 164), contained three sections. By the act of March 3, 1891 (26 Stat. L., 1095; Appendix, No. 44, p. 221), five sections were added thereto, numbered from 4 to 8. The first section provides for the reclamation of such lands by "conducting water upon the same." The second section provides "that all lands, exclusive of timber lands and mineral lands, which will not, without artificial irrigation, produce some agricultural crop shall be deemed desert lands within the meaning of this act," and the third section provides that "this act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Arizona, New Mexico, Wyoming, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office."

It is therefore prescribed as follows:

First. Lands bordering upon streams, lakes, or other natural bodies of water, or through or upon which there is any river, stream, arroyo, lake, pond, body of water, or living spring, are not subject to entry under the desert-land law until the clearest proof of their desert character is furnished.

Second. Lands which produce native grasses sufficient in quantity, if unfed by grazing animals, to make an ordinary crop of hay in usual seasons are not desert lands.

Third. Lands which will produce an agricultural crop of any kind in amount to make the cultivation reasonably remunerative are not desert.

Fourth. Lands containing sufficient moisture to produce a natural growth of trees are not to be classed as desert lands.

By the fourth section the party making entry is required at the time of filing the declaration to file also a map of the land, which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops, and shall also show the source of the water to be used for irrigation and reclamation. Provision is made that persons may associate together in the construction of canals and ditches for irrigating and reclaiming tracts entered or proposed to be entered by them, and that they may file a joint map or maps showing their plan of internal improvements.

By the fifth section it is required that the entryman shall expend, for the purpose of the statute, at least $3 per acre—$1 per acre during each year for three years—and shall file proof thereof during each year, such proof to consist of his affidavit, corroborated by the affidavits of two or more witnesses, showing that the full sum of $1 per acre has been expended during such year and the manner in which expended (Forms 4–074b and 4–074c, pp. 296–297), and at the expiration of the third year a map or plan showing the character and extent of improvements; that failure to file the required proof during any year shall cause the land to revert to the United States, the money paid to be forfeited, and the entry to be canceled; and it is provided that the party may make his final entry and receive his patent at any time prior to the expiration of the three years on making the required proof of reclamation, of expenditure to the aggregate amount of $3 per acre, and of the cultivation of one-eighth of the land.

The sixth section provides that entries made prior to the date of the amendatory act of March 3, 1891, may be perfected according to the provisions of the act of March 3, 1877, as originally enacted, or, at the option of the claimant, may be perfected under the law as amended, so far as applicable, and repeals all acts or parts of acts in conflict with the act as amended.

The seventh section provides that at any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof of the reclamation and cultivation of the land according to the legal requirements, and that he or she is a citizen of the United States, and upon payment in full therefor, a patent shall issue for the land to the applicant or his assigns. It limits the amount of land that may be held by any person or association of persons by assignment or otherwise, prior to the issue of patent, to 320 acres as the maximum; providing, however, that this section shall not apply to entries made prior. Provision is made therein for contests on sufficient grounds, and that on proof thereof the entry shall be canceled and the lands and money paid therefor forfeited to the United States.

By the eighth section the provisions of the original act and the amendments are extended to Colorado.

By the same section the right to make desert-land entry is restricted to resident citizens of the State or Territory in which the land sought is located, whose citizenship and residence must be duly shown. (Forms 4–274, 4–372a, and 4–373a, pp. 291, 294 and 297.)

By the first section of the act of July 26, 1894 (28 Stat. L., 123), it is provided that the time for making final proof and payment for all lands located under the homestead and desert-land laws of the United States, proof and payment of which have not yet been made, be, and the same is hereby, extended for the period of one year from the time proof and

payment would become due under existing laws (24 L. D., 435), and by act of August 4, 1894 (28 Stat. L., 226), it is enacted—

That in all cases where declarations of intention to enter desert lands have been filed, and the four years' limit within which final proof may be made had not expired prior to January first, eighteen hundred and ninety-four, the time within which such proof may be made in each such case is hereby extended to five years from the date of filing the declaration; and the requirement that the persons filing such declarations shall expend the full sum of one dollar per acre during each year toward the reclamation of the land is hereby suspended for the year eighteen hundred and ninety-four, and such annual expenditure for that year, and the proof thereof, is hereby dispensed with: *Provided*, That within the period of five years from filing the declaration satisfactory proof be made to the register and receiver of the reclamation and cultivation of such land to the extent and cost and in the manner provided by existing law, except as to said year eighteen hundred and ninety-four, and upon the payment to the receiver of the additional sum of one dollar per acre, as provided in existing law, a patent shall issue as therein provided.

Under these acts final proof on all entries made prior to August 4, 1894, may be made at any time within five years from date of entry.

1. The amount of land which might be entered by any one person under the desert-land law was fixed by the act of March 3, 1877, at the maximum of one section, or 640 acres. Under the act of August 30, 1890 (26 Stat. L., 391), no person could be permitted to enter thereafter more than 320 acres in the aggregate under all the land laws, which is construed by the seventeenth section of the act of March 3, 1891 (26 Stat. L., 1095; Appendix, No. 44, p. 221), not to include the amount of mineral lands entered in the prescribed maximum. Parties initiating claims are required to make affidavit to show observance of such inhibition. (See Form 4–102b, p. 272.) Under the amendatory act of March 3, 1891, above, no person is entitled to hold under assignment or otherwise, prior to the patent, more than 320 acres entered as desert land, but this will not affect entries made prior to the approval of the amendatory act.

Assignees must properly prove their assignments by filing in the local office an affidavit and a certified copy of the instrument under which they claim, and must make affidavit of the amount of land held. (Form 4–074a, p. 296.)

2. Under the act of March 3, 1877, it was held that desert-land entries were not assignable, and that the transfer of such entries, whether by deed, contract, or agreement, vitiated the entry. This is changed by the seventh section of the act of March 3, 1877, as amended by the act of March 3, 1891, above, which recognizes assignments after entry and before patent; but an entry made in the interest or for the benefit of any other person, firm, or corporation, or with intent that the title shall be conveyed to any other person, firm, or corporation, is illegal.

3. It has been held that the price of lands sought to be entered under the provisions of the act of March 3, 1877, was controlled and fixed by the provisions of section 2357 of the Revised Statutes, but it is now held that the price of lands sought to be entered under the provisions of said act of 1877 as amended by section 2 of the act of March 3, 1891, is to be $1.25 per acre, without regard to the situation of such land in relation to railroad grants. (14 L. D., 74.)

4. A party desiring to avail himself of the privileges of the desert-land act must file with the register and receiver of the proper district land office a declaration, under oath, showing that the applicant is a citizen of the United States, or has declared his intention to become such, and a resident of the State or Territory in which the land sought is located. It must also be set up that the applicant has not previously exercised the right of entry under the provisions of this act, and that

he intends to reclaim the tract of land applied for by conducting water thereon within four years from date of his declaration. The declaration must also contain a description of the land applied for, by legal subdivision if surveyed, or, if unsurveyed, as nearly as possible without a survey, by giving, with as much clearness and precision as possible, the locality of the tract with reference to the already established lines of survey, or to known and conspicuous landmarks, so as to admit of its being readily identified when the lines of survey come to be extended.

5. Attention is called to the terms of this declaration (Form 4–274, p. 291), which are such as require a personal knowledge by the entrymen of lands intended to be entered. The required affidavit can not be made by an agent nor upon information and belief, and the register and receiver must reject all applications in which it does not appear that the entryman made the averments contained in the sworn declaration upon his own knowledge derived from a personal examination of the lands. The blanks in the declaration must be filled in with a full statement of the facts of his acquaintance with the land and how he knows its character as alleged. Said declaration must be corroborated by the affidavits of two reputable witnesses who are acquainted with the land and with the applicant, and who must clearly state their acquaintance with the premises, and the facts as to the condition and situation of the land upon which they base their judgment (Form 4–074, p. 293).

6. Applicants and witnesses must in all cases state their places of actual residence, their business or occupations, and their post-office addresses. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and if a residence is in a city the street and number must be given. The register and receiver will note the post-office address on their tract books.

7. The declaration and corroborating affidavits may be made before the register or receiver of the land district or before any commissioner of the United States district court having jurisdiction over the county or parish in which the land is situated, under act of May 28, 1896 (29 Stat., 184, Appendix No. 70, p. 242), or before the judge or clerk of any court of record of such county or parish; and if the lands are in an unorganized county, then the affidavits may be made in an adjacent county. In the Territories the proof may be made before a United States court commissioner, as provided by act of March 2, 1895 (see Appendix No. 64, p. 239). (Act of May 26, 1890, 26 Stat. L., 121; Appendix No. 38, p. 213; circular June 25, 1890, 10 L. D., p. 687; and Secretary's decision of October 2, 1890, case of Edward Bowker, 11 L. D., 361.) The depositions of applicant and witnesses in making final or yearly proof must be taken in the same manner. The affidavits of applicant and witnesses must in every instance, either of original or yearly or final proof, be made at the same time and place and before the same officer.

8. When proof of the character of the land has been made as above required to the satisfaction of the district officers, the applicant will pay the receiver the sum of 25 cents per acre for the land applied for, the register will receive and file his declaration, and the register and receiver will jointly issue, in duplicate, a certificate (Form 4–199, p. 294), acknowledging the receipt of the money paid and showing the filing of the declaration, one of which will be delivered to the applicant, and the other filed by the register and receiver with the declaration and proof. These certificates will be numbered in the order issued, and the register will keep a record thereof showing the number, date, amount paid,

name of applicant, and description of the land applied for, in each case of original entry, and in addition he will note the same upon his plats and records as in cases of ordinary entries. A similar record will be kept of the yearly proofs made and the maps or plans filed from time to time, under the fifth section, and the yearly proofs and plans will be forwarded to the General Land Office by special letter. At the end of each month an abstract of the declarations filed and certificates issued under this act during the month will be transmitted, accompanied by the declarations, plans, and proofs filed, and the retained copy of certificate in each case. On final proofs and payment being made according to the sixth and seventh sections, a final certificate and receipt will be issued. In ex parte cases, the entryman's right to the land will not be passed upon until the submission of final proof. (See Andrew Clayburg, 20 L. D., 211.)

9. Surveys of desert-land claims can not be made in advance of the regular progress of the public surveys. After a township has been surveyed the claim must be adjusted to the lines of the survey. Final proof on entries made prior to August 1, 1887, can be made without publication of notice to do so (9 L. D., p. 672). Publication of notice of intention to make final proof must be made in all cases of entries instituted since that time. When the land has not been surveyed the notice must contain a description of the land as nearly as possible without a survey, by giving, with as much clearness and precision as pos sible, the locality of the tract with reference to the already established lines of survey, or to known and conspicuous landmarks, so as to admit of its being readily identified.

When final proof has been submitted on an entry upon unsurveyed land, if no objections exist, the register and receiver will approve the same and forward it to this office without collecting the purchase money and without issuing the final papers. When the land shall have been surveyed they will require the party to make proof, in the form of an affidavit, corroborated, showing the legal subdivisions of his claim. When this has been done they will correct their records to make them describe the land by legal subdivisions, and if the proof submitted to this office has been found satisfactory, and if no objection exists in their office, will issue final papers upon payment of the amounts due. (Circular of April 20, 1891, 12 L. D., 376.)

10. Persons making desert-land entries must acquire a clear right to the use of sufficient water for the purpose of irrigating the whole of the land, and of keeping it permanently irrigated. A person who makes a desert-land entry before he has secured a water right does so at his own risk; and as one entry exhausts his right of entry, such right can not be restored or again exercised because of failure to obtain water to irrigate the land selected by him.

11. The source and volume of the water supply, how acquired and how maintained, the carrying capacity of the ditches, and the number and length of all ditches on each legal subdivision of the land must be specifically shown. Applicant and witnesses must each state in full what has been done in the matter of reclamation and improvement, and by whom, and must each answer fully and of their own personal knowledge the questions propounded in the final proof depositions. They must state specifically whether they at any time saw the land effectually irrigated, for without knowledge thus derived the fact of reclamation remains a matter of conjecture. (Case of Charles H. Schick, 5 L. D., 151.)

12. The whole tract and each legal subdivision if surveyed for which

proof is offered must be actually irrigated. If there are some high points or uneven surfaces which are practically not susceptible of irrigation, the nature, extent, and area of such spots must be fully stated. In this connection the right to the water used, the quantity of it, the manner of its distribution, and the permanence of the supply are all to be taken into consideration. (Case of George Ramsey, 5 L. D., 120.)

13. Before final proof shall hereafter be submitted by any person claiming to enter lands under the desert-land act, such person will be required to file a notice of intention to make such proof, which shall be published in the same manner as required in homestead and preemption cases.

14. Contests may be instituted against desert-land entries for illegality or fraud in the inception of the entry, or for failure to comply with the law after entry, or for any sufficient cause affecting the legality or validity of the claim. Contestants will be allowed a preference right of entry for thirty days after notice of the cancellation of the contested entry in the same manner as in homestead and preemption cases, and the register will give the same notice and be entitled to the same fee for notice as in other cases.

15. When relinquishments of desert-land entries are filed in the local land office, the entries will be canceled by the register and receiver in the same manner as in homestead, preemption, and timber-culture cases, under the first section of the act of May 14, 1880. (21 Stat. L., 140; Appendix No. 15, p. 174.)

16. Nothing herein will be construed to have a retroactive effect in cases where the official regulations of this Department in force at the date of entry were complied with. Parties whose entries were made under the laws and regulations which prevailed prior to the passage of the act of March 3, 1891, will not be injuriously affected in their rights by any provisions of the last-mentioned act. But where a party elects to perfect an entry made prior to the date of the act under the provisions of the amended act, due compliance with the amended act must be shown. He must show an expenditure of not less than $3 per acre in the manner provided by said act, and that one-eighth of the land has been cultivated.

Assignment may also be made of an entry made prior to March 3, 1891, to the extent of the whole amount of land entered irrespective of the restriction prescribed in the seventh section, limiting the amount to be held by assignment or otherwise to 320 acres, but no assignee of such entry to acquire more than 640 acres (see case of David B. Dole, 3 L. D., 214). But assignees of entries made prior to said act must perfect the entry under the provisions of the act of March 3, 1891.

NOTICE TO DELINQUENT CLAIMANTS.

In a number of cases persons who have initiated claims to public lands under the desert-land act of March 3, 1877, have allowed the limitation provided by the statute to expire without making the final proof of reclamation of the land and the final payment as required by that act; therefore, in all such cases which now exist or which may hereafter exist, the registers and receivers will notify the parties of their noncompliance with the law, and that ninety days from date of service of notice will be allowed to each of them within which to show cause why their claims should not be declared forfeited and their entries canceled.

TIMBER AND STONE LANDS.

The act of June 3, 1878 (20 Stat. L., 89; Appendix No. 6, p. 165), provides for the sale of timber lands in the States of California, Oregon, Nevada, and Washington, and the act of August 4, 1892, section 2 (27 Stat. L., 348; Appendix No. 51, p. 231), extends the provisions of the former act to all the public-land States.

1. The quantity of land which may lawfully be acquired under said acts by any one person or association is limited to not exceeding 160 acres, which must be in one body. (See case of Daniel J. Heyfran, 19 L. D., 512.)

2. The land must be valuable chiefly for timber (or stone) and unfit for cultivation if the timber were removed.

3. It must be unreserved, unappropriated, and uninhabited, and without improvements (except for ditch or canal purposes) save such as were made by or belong to the applicant.

4. Lands containing valuable deposits of gold, silver, cinnabar, copper, or coal are not subject to entry under this act.

5. One entry or filing only can be allowed any person or association of persons. A married woman may be permitted to purchase under said act, provided the laws of the State or Territory in which the entry is made permit a married woman to purchase and hold real estate as a feme sole; but in addition to the proofs already provided for she shall make affidavit at the time of entry that she purposes to purchase said land with her separate money, in which her husband has no interest or claim; that said entry is made for her sole and separate use and benefit; that she has made no contract or agreement whereby any interest whatever therein will inure to the benefit of her husband or any other person, and that she has never made an entry under said act, or derived or had any interest whatever, directly or indirectly, in or from a former entry made by any person or association of persons.

6. A person applying to purchase a tract under the provisions of this act is required to make affidavit before the register or receiver that he has made no prior application under this act; that he is by birth or naturalization a citizen of the United States, or has declared his intention to become a citizen. If native born, parol evidence to that fact will be sufficient; if not native born, record evidence of the prescribed qualification must be furnished. The affidavit must designate by legal subdivisions the tract which the applicant desires to purchase, setting forth its character as above; stating that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes (if any exist), save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title he may acquire from the Government of the United States shall inure in whole or in part to the benefit of any person except himself.

7. Every person swearing falsely to any such affidavit is guilty of perjury, and will be punished as provided by law for such offense. In addition thereto, the money that may be paid for the land is forfeited, and all conveyances of the land, or of any right, title, or claim thereto, are absolutely null and void as against the United States.

8. The sworn statement before the register and receiver required as above (section 2 of the act) must be made upon the personal knowledge of applicant, except in the particulars in which the statute provides that the affidavit may be made upon information and belief.

9. The register or receiver will in every case read this affidavit to applicant, or cause it to be read to him in their presence, before he is sworn or his signature is attached thereto.

10. The published notice required by the third section of the act must state the time and place when, and name the officer before whom, the party intends to offer proof, which must be after the expiration of the sixty days of publication (circular of September 5, 1889, 9 L. D., 384), and must also contain the names of the witnesses who are to testify. (See case of Sarah L. Bigelow, 20 L. D., 6.)

11. The evidence to be furnished to the satisfaction of the register and receiver at time of entry, as required by the third section of the act, must be taken before the register or receiver, and will consist of the testimony of claimant, corroborated by the testimony of two disinterested witnesses. The testimony will be reduced to writing by the register or receiver upon the blanks provided for the purpose, after verbally propounding the questions set forth in the printed forms. The accuracy of affiant's information and the bona fides of the entry must be tested by close and sufficient oral examination. The register and receiver will especially direct such examination to ascertain whether the entry is made in good faith for the appropriation of the land to the entryman's own use, and not for sale or speculation, and whether he has conveyed the land or his right thereto, or agreed to make any such conveyance, or whether he has directly or indirectly entered into any contract or agreement in any manner with any person or persons whomsoever by which the title that may be acquired by the entry shall inure, in whole or in part, to the benefit of any person or persons except himself. They will certify to the fact of such oral examination, its sufficiency, and their satisfaction therewith.

12. Attention is called to the instructions of this office of August 19, 1884, addressed to the register and receiver at Humboldt, Cal. (3 L. D., 84), in respect to scrutiny of applications and entries, the examination of parties and witnesses, and the duty of the local officers in accepting, rejecting, and reporting such applications and entries; and all registers and receivers will strictly follow and be governed by said instructions.

13. The entire proof must be taken at one and the same time, and payment must be made at the time of offering proof. Proofs will in no case be accepted in the absence of a tender of the money; and the register's certificate will in no case be given to the party or his attorney, but must be handed directly to the receiver by the register; and no note will be made upon the plats or tract books until the receiver's receipt has been issued. The proof, certificate, and receipt must in all cases bear even date.

14. When an adverse claim, or any protest against accepting proof or allowing an entry, is filed before final certificate has been issued, the register and receiver will at once order a hearing, and will allow no entry until after their written determination upon such hearing has been rendered. They will report their final action in all protest and contest cases, and transmit the papers to this office.

15. After certificate has been issued, contest, applications, and protests will be submitted to this office, as in other cases of contest after final entry.

16. Contests may be brought against timber and stone land applications or entries, in accordance with rule 1 of Rules of Practice, either

by an adverse claimant or by any other person, and for any sufficient cause affecting the legality or validity of the filing, entry, or claim.

17. In case of an association of persons making application for an entry under this act, each of the persons must prove the requisite qualifications, and their names must appear in the sworn statement, as in case of an individual person. They must also unite in the regular application for entry, which will be made in their joint names as in other cases of joint cash entry. The forms prescribed for cases of applications by individual persons may be adapted for use in applications of this class, and the sworn statement as to the character of the land may be made by one member of the association upon his personal knowledge.

18. No person who has made an individual entry or application can thereafter make one as a member of an association, nor can any member of an association making an entry or application be allowed thereafter to make an individual entry or application.

19. Applicants to make timber-land entries, and claimants and witnesses making final proof, must in all cases state their places of actual residence, their business or occupation, and their post-office address. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named; and if residence is in a city, the street or number must be given.

DISPOSAL OF INDIAN LANDS UNDER SPECIAL STATUTES.

OSAGE INDIAN TRUST AND DIMINISHED-RESERVE LANDS.

The Osage Indian trust and diminished-reserve lands are subject to sale according to the general principles of the preemption laws, and the special provisions of the act of May 28, 1880 (21 Stat. L., 143; Appendix No. 16, p. 174). See also tenth section act of March 3, 1891 (26 Stat. L., p. 1095; Appendix No. 44, p. 221).

Claimants are required to file a declaratory statement within three months from date of settlement and to make proof and payment within six months from date of filing.

This proof must be made, after notice by publication, before the officers authorized to take proof in preemption cases and must show that the claimant is a qualified preemptor and an actual settler on the land at the date of application to enter. Six months' continuous residence next preceding date of proof is not an essential requirement, but it is essential that the settlement be shown to be actual and bona fide.

Payment for these lands must be made in cash at the rate of $1.25 per acre, and may be made by installments, one-fourth the purchase price when proof is made, the remainder in three equal annual installments, with interest on the deferred payments at the rate of 5 per cent per annum.

Section 3 of the act of May 28, 1880, provides that when default in payment of any installment of the purchase money, when it becomes due, continues, the land may be offered at public sale, after advertisement, unless before the date fixed for the offering payment of the whole purchase price is completed. Any land so offered and remaining unsold to be thereafter subject to sale at private entry as prescribed in said section 3.

After payment of the first installment of purchase money has been made the lands are subject to taxation according to the laws of the State of Kansas.

Payment of the remaining installments must be made by the entryman or in his behalf, and patents can be issued to entrymen only.

By filing Osage declaratory statements in accordance with the act of May 28, 1880, the right of preemption to such or any other lands is exhausted if the filings are valid and capable of being perfected into complete title.

CHIPPEWA CEDED LANDS, MINNESOTA.

The act of January 14, 1889, sections 4, 5, and 6 (25 Stat. L., 642), makes provision for the disposal of such lands of the Chippewa Indian reservations, Minnesota, as may be ceded by the Indians under said act. The examination of said lands is now in progress in accordance with the provisions of the statute, but it can not be determined at this time when the same will be completed.

HOMESTEADS IN OKLAHOMA TERRITORY.

The lands in Oklahoma Territory, at present open to homestead settlement and entry, except the "Public Land Strip," were ceded to the United States by the Indians, for whose occupancy the lands were formerly reserved.

The acts of Congress ratifying and accepting the several cessions, contained provisions for the disposal of the lands, and in addition, sections 18 to 25, inclusive, of the act of May 2, 1890 (26 Stat. L., 81; Appendix No. 37, p. 209), made provisions applicable to all the lands in the Territory.

The statutes above referred to and the tracts to which they refer are as follows: Sections 12, 13, 14, and 15, act of March 2, 1889 (25 Stat. L., 1004 to 1006; Appendix No. 35, p. 204), lands ceded by the Muscogee, or Creek, and the Seminole Indians; section 7, act of February 13, 1891 (26 Stat. L., 759), lands ceded by the Sac and Fox and the Iowa Indians; section 16, act of March 3, 1891 (26 Stat. L., 1026), lands ceded by the Absentee Shawnee, the Pottawatomie, and the Cheyenne and Arapahoe Indians; section 3, act of March 3, 1893 (27 Stat. L., 563; Appendix No. 46, p. 228), lands ceded by the Kickapoo Indians; and sections 10 to 14, inclusive, act of March 3, 1893 (27 Stat. L., 640 to 645), lands ceded by the Cherokee, the Tonkawa, and the Pawnee Indians.

The homestead laws and regulations contained in this circular (see pages 11 to 36, inclusive, 83 to 94, inclusive, and 153 to 157, inclusive) will govern in the allowance of entries for these lands except as modified by the statutes mentioned in the following particulars:

RESTRICTION AS TO OWNERSHIP OF LAND.

No person who shall at the time be seized in fee simple of 160 acres of land in any State or Territory will be entitled to enter land in Oklahoma Territory (sec. 20, act May 2, 1890). This restriction differs from the general restriction of a similar character found in the act of March 3, 1891, and therefore the preliminary homestead affidavit (Form 4–063, p. 275) has been amended by striking out the words "more than" from the clause "I am not the proprietor of more than 160 acres of land in any State or Territory," and this amended form must be used in all homestead entries in Oklahoma.

SECOND HOMESTEAD ENTRIES.

The rule stated on page 19 of this circular, under the title "Only one homestead privilege to the same person permitted," is so modified as to admit of a homestead entry being made by anyone who, prior to

the passage of the act of March 2, 1889 (25 Stat. L., 1004), had made a homestead entry, but failed from any cause to secure a title in fee to the land embraced therein, or who, having secured such title, did so by what is known as the commutation of his homestead entry prior to the date of said act (see sec. 2301, U. S. Rev. Stat., p. 155, and statement on page 24 of this circular, under the title "Commutation of homestead entries"). A person desiring to make another entry under this provision will be required to make affidavit to the facts necessary to entitle him to do so under the laws and rules, designating in the affidavit his former entry by description of the land, number and date of entry, with the name of the land office where made, or other sufficient data to admit of readily identifying it on the official records, which affidavit the register and receiver will transmit with the other entry papers to this office. This provision is held to be applicable to all lands in Oklahoma Territory (see case of William T. Dick, 19 L. D., 540). By the special provisions of the acts of February 13, 1891 (26 Stat. L., 759), and March 3, 1893 (27 Stat. L., 563), second homestead entries may be made under like conditions when the first entry was made, or, if commuted, when the title was perfected prior to February 13, 1891, as regards Sac and Fox and Iowa lands, and March 3, 1893, as regards Kickapoo lands.

Parties who have perfected title to former homestead entries under special laws or under the provisions of section 2291, Revised Statutes, are not entitled to make second homestead entries under these provisions, as it is limited to parties who commuted their former entries under section 2301, Revised Statutes. (See case of James M. Clark, 17 L. D., 46.)

With regard to persons making homestead entries and failing to acquire title thereunder, or commuting them, after the passage of said act of March 2, 1889, or as regards the Sac and Fox and Iowa and the Kickapoo lands after February 13, 1891, or March 3, 1893, respectively, the rule stated on page 19 of this circular as to second homesteads is operative and will be enforced in relation to these lands as well as others.

SOLDIERS' AND SAILORS' ADDITIONAL ENTRIES.

The statutes provide for the disposal of these lands except the lands in what was known as the "Public Land Strip," now Beaver County, "to actual settlers under the homestead laws only," and while providing that "the rights of honorably discharged Union soldiers and sailors in the late civil war, as defined and described in sections 2304 and 2305 of the Revised Statutes (see p. 156 of this circular), shall not be abridged," make no mention of sections 2306 and 2307 thereof, under which soldiers and sailors, their widows and orphan children are permitted, with regard to the public lands generally, to make additional entries in certain cases, free from the requirement of actual settlement on the entered tract (see pp. 29 and 156 of this circular). It is therefore held that soldiers' or sailors' additional entries can not be made on these lands under said sections 2306 and 2307 unless the party claiming will, in addition to the proof required on pages 29 and 156 of this circular, make affidavit that the entry is made for actual settlement and cultivation, according to section 2291, as modified by sections 2304 and 2305 of the Revised Statutes, and the prescribed proof of compliance therewith will be required to be produced before the issue of final certificate. This restriction, however, is not applicable to the lands in what was known as the "Public Land Strip," as said lands are subject

to disposal under the general homestead laws (except sec. 2301, Rev. Stat.), including said sections 2306 and 2307, United States Revised Statutes.

ILLEGAL ENTRANCE UPON THESE LANDS.

It is provided in relation to all of the tracts so far opened to settlement in Oklahoma Territory, except the "Public Land Strip," that any person entering upon and occupying any particular tract prior to the time said lands were opened to settlement by proclamation of the President should never be permitted to enter any of said lands or acquire any right thereto.

The several tracts were opened to settlement and entry at 12 o'clock noon (central standard time) on the dates specified below:

The Muscogee or Creek and Seminole lands, under act of March 2, 1889	Apr. 22, 1889
Sac and Fox lands	Sept. 22, 1891
Iowa lands	Sept. 22, 1891
Absentee Shawnee and Pottawatomie lands	Sept. 22, 1891
Cheyenne and Arapahoe lands	Apr. 19, 1892
Cherokee Outlet lands	Sept. 16, 1893
Tonkawa lands	Sept. 16, 1893
Pawnee lands	Sept. 16, 1893
Kickapoo lands	May 23, 1895

Each homestead applicant will be required, first, to make affidavit, in addition to other requirements, that he did not violate the law by entering upon or occupying any portion of the lands embraced in the former reservation which included the particular land covered by his application prior to the time fixed by the President's proclamation for legal entrance thereon. This affidavit should be of Form 4–102 (p. 276), modified by the insertion of the appropriate dates of the proclamation, and opening where necessary.

ENTRIES MUST EMBRACE CONTIGUOUS LAND.

The provision in section 20 of the act of May 2, 1890 (26 Stat. L., 81), that all homestead entries for lands within said Territory shall be in square form as nearly as may be, has reference to the purpose and intent of the homestead laws generally, contemplating entries by quarter sections, which are in square form, when this is practicable, but not requiring it as an absolute rule, and permitting entries to be made of different tracts to make up the full quantity allowed and intended to be entered. When this is the case it is required that the tracts shall be contiguous to each other, so as to form one body of land, although not in strictly square form, and in such cases the ruling to that effect should be applied as given on page 88 of this circular.

SETTLERS ON THE "PUBLIC LAND STRIP."

Actual settlers at the date of the act upon the lands known as the "Public Land Strip," now embraced in Beaver County, are allowed the preference right to enter the lands upon which they have settled under the homestead laws, but they are not permitted to receive credit for more than two years' residence prior to the date of the act of May 2, 1890. (See sec. 18, p. 209.)

COMPLETION OF TITLE.

Title to the lands opened to settlement on April 22, 1889, and to the lands mentioned in the last preceding paragraph may be perfected under sections 2291 or 2305, United States Revised Statutes, without the pay-

ment of any sum except the final homestead commissions and the expense of making proof; but an additional payment is required for all other lands in said Territory hereinbefore mentioned, whether proof is made under section 2291 or section 2305, United States Revised Statutes, or under one of the special statutes to be mentioned hereafter. Attention is directed to pages 14, 22 and 83 of this circular for information as to proof under said sections 2291 and 2305, United States Revised Statutes.

No homestead entries for any of the lands in said Territory are subject to commutation under the provisions of section 2301, United States Revised Statutes, but they may be commuted for town-site purposes under the special provisions of section 22 of the act of May 2, 1890. (See p. 54 of this circular.)

It is provided in section 20 of the act of May 2, 1890 (26 Stat. L., 81), that "no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof;" therefore, if the party submitting proof is foreign born, he will be required to furnish evidence of naturalization the same as in final proof, under sections 2291 or 2305, United States Revised Statutes.

The act of May 2, 1890, section 23, reserves public highways 4 rods wide "between each section" of land in the Territory, but provides that no deduction shall be made where cash payments are provided for in the purchase money on account of such reservation.

In all cases where a party avails himself of the privilege of securing title to the tract embraced in his entry, as hereinafter mentioned, before he is competent to submit proof under sections 2291 or 2305, United States Revised Statutes, unless he commutes for town-site purposes, he will be required to file with his proof an affidavit that no part of said lands is occupied, required, or intended for town-site purposes. (Form 4–102c, p. 276.)

MUSCOGEE OR CREEK AND SEMINOLE LANDS.

Settlers on these lands may obtain patent therefor twelve months from date of locating upon said homestead by showing a compliance with all the laws relating to such homestead settlement and paying for the lands so entered at the rate of $1.25 per acre (sec. 21, act May 2, 1890), or they may, as before stated, obtain patent without additional payment by making proof under sections 2291 or 2305, United States Revised Statutes.

SAC AND FOX AND IOWA LANDS.

Settlers on these lands have the option of obtaining a patent therefor at the expiration of twelve months from the date of settlement upon the homestead, or they may make proof and receive patent at any time thereafter and before the expiration of the statutory period for making proof; but in either case they will be required to pay the sum of $1.25 for each acre of the land embraced in the homestead entry *in addition to the fees provided by law*. (Sec. 7, act February 13, 1891.)

ABSENTEE SHAWNEE, POTTAWATOMIE, AND CHEYENNE AND ARAPAHOE LANDS.

The act of March 3, 1891, providing for the disposal of these lands, made no provision for the completion of title earlier than could be done under the provisions of sections 2291 and 2305, United States Revised Statutes, and required a payment within five years from the date of

the original entry of $1.50 per acre for the land, *in addition to the fees provided by law*, one-half of which was required to be paid within two years from the date of the entry. By the act of October 20, 1893 (28 Stat. L., 3; Appendix No. 47, p. 229), Congress extended the time for the first payment for one year, and by the act of March 2, 1895 (28 Stat. L., 901; Appendix No. 65, p. 239), the time was further extended so that the first payment may be made at any time within five years from the date of the entry.

In case of default in making any payment when due, the register and receiver will notify the entryman of that fact, and that, if the payment shall not be made within sixty days thereafter, steps will be taken looking to the cancellation of the entry. Upon the expiration of the time allowed by such notice, they will report the status of the entry to the General Land Office for appropriate action.

Should any party tender the money required to be paid for said lands after the time it is due and before final cancellation of the entry, the same will be received by the register and receiver and a report thereof made by special letter to the General Land Office. (See Edward Uhlig, 12 L. D., p. 111.)

The mere fact that a party has not paid the purchase money within the prescribed time should not be regarded as sufficient ground upon which to base a contest where there is no allegation of failure to comply with the settlement and cultivation requirements of the law.

The act of October 20, 1893, in addition to extending the time for the first payment, provided that any settler on these lands "who has complied with all the laws relating to such homestead settlement may receive a patent therefor at the expiration of twelve months from the date of locating upon such homestead upon payment to the United States of one dollar and fifty cents per acre for the land."

Applications to purchase under this provision will be made upon Form 4–001 (p. 271).

KICKAPOO LANDS.

The provisions for completion of title and for payment of the first installment of the purchase money, both as to time and amount, are the same as those relative to the lands above mentioned of the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe Indians, except as regards the extension of time within which to make the final payment and the provision for commutation contained in the act of October 20, 1893, but the right of commutation was extended to settlers thereon by the act of April 11, 1898 (30 Stat., 354).

Attention is directed to the instructions given in the preceding statement as to the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe lands, which are applicable to these lands except in the two particulars indicated.

CHEROKEE OUTLET, TONKAWA AND PAWNEE LANDS.

No provision was made by the act of March 3, 1893 (27 Stat. L., 612), under which these lands were opened to settlement, for the commutation of homestead entries except for town-site purposes (see p. 54 of this circular). Each settler on said lands is required by said statute, before receiving a patent for his homestead, to pay for the lands taken by him, *in addition to the fees provided by law*, the sum of $2.50 per acre for any land east of 97½ degrees west longitude, the sum of $1.50 per acre for any land between 97½ degrees and 98½ degrees west longitude, and the

sum of $1 per acre for any land west of 98½ degrees west longitude, and also to pay interest upon the amount so to be paid for said land from the date of entry to the date of final payment therefor at the rate of 4 per cent per annum.

By the act of August 15, 1894, section 19 (28 Stat. L., 336; Appendix No. 55, p. 234) the right of commutation was extended to all bona fide homestead settlers on these lands after fourteen months from the date of settlement, upon the full payment for the lands at the prices provided in the act of March 3, 1893 (supra).

Applicants to commute their homestead entries under said provision will be required to show compliance with the homestead law for fourteen months from the date of settlement and to the date of proof; and if foreign born, to furnish evidence of naturalization, the same as in five-year proof, under section 20, act of May 2, 1890 (26 Stat. L., 81). They will be required to pay for the land, as provided in the tenth and thirteenth sections of the act of March 3, 1893 (27 Stat. L., 640), the same as though they were making five-year proof, excepting the regular final homestead commissions, *but no additional payment for the privilege of commutation will be required.*

The interest required to be paid will be computed from the date of entry to the date of final payment, as required by statute, and where the proof is made outside of the land office and transmitted by mail it must be accompanied by a sufficient sum to meet the interest computed to the date when the receiver's receipt is issued. The proof and final affidavit in such cases will be made upon the regular homestead blanks, modified as the circumstances require, and in each case must be accompanied by an affidavit of Form 4–102c (p. 276), properly modified.

ADDITIONAL EXTENSION OF TIME.

In addition to the acts of Congress extending the time for payment referred to in the foregoing statement regarding ceded Indian lands in Oklahoma, are the three following making still further extensions:

Act of June 10, 1896 (29 Stat., 342), extending the time for one year additional in favor of settlers on all ceded Indian reservations.

Act of June 7, 1897 (30 Stat., 87), making a further extension of one year on all ceded Indian reservations.

Act of July 1, 1898 (30 Stat., 595), further extending the time in all such cases to July 1, 1900.

PUBLIC LAND STRIP.

Under the provisions of section 18 of the act of May 2, 1890 (26 Stat. L., 81), title may be perfected to these lands under the general homestead laws (except sec. 2301, U. S. Rev. Stat.) without the requirement of any payment other than the fees required by law. The right of commutation withheld by said act was, by the act of October 20, 1893 (28 Stat. L., 3; Appendix No. 47, p. 229), extended to these lands in a modified form, so that homestead settlers who have complied with all the laws relating to homestead settlement may receive a patent at the expiration of twelve months from the date of locating upon the homestead, by paying $1.25 per acre for the land embraced in the homestead entry. For information as to the mode of procedure in making proof and payment see the remarks relative to completion of title to Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe lands, under the same law, pages 51–52.

COMMUTATION OF HOMESTEAD ENTRIES FOR TOWN-SITE PURPOSES.

All applications to commute homestead entries, or portions thereof, to cash entries, at the rate of $10 per acre, for the purpose named in the twenty-second section of the act of May 2, 1890 (26 Stat. L., 81; Appendix No. 37, p. 209), will be made through the district land office, addressed to the honorable Secretary of the Interior and transmitted to the Commissioner of the General Land Office, in accordance with the following regulations:

1. Entries under said section must be made according to the legal subdivision of the land, and no application for a less quantity than is embraced in a legal subdivision or for land involved in any contest will be received.

2. An entryman desiring to commute his homestead entry, in whole or in part, for town-site purposes shall present his application (Form 4–001, p. 271) at the local land office of the district in which his land is situated, and if his application and the status of his homestead entry are found to be in accord with the foregoing requirements, the register and receiver will permit him to make publication of notice of his intention to submit commutation town-site proof in accordance with the law herein referred to. The notice of intention to make proof as above provided shall be the same in all respects as that required of a claimant in making final homestead proof, with the addition that it shall state that said proof will be made under section 22 of the act of May 2, 1890.

3. Proof in accordance with the published notice, consisting of the testimony of the claimant and two of the advertised witnesses, must be furnished relating—

First. To evidence that the tract sought to be purchased is required for town-site purposes.

Second. To the observance by the entryman of the provisions of the law and of the President's proclamation under which settlement on the land sought to be purchased became permissible.

Third. To the claimant's citizenship and qualifications in all other respects, as a homesteader, the same as in making final homestead or commutation proof.

Fourth. To due compliance with all the requirements of the homestead law by the claimant up to the date of submitting proof.

Proof of publication of notice must also be furnished as in ordinary cases.

4. At the time of submitting proof, as provided in the preceding paragraph, the entryman shall file therewith triplicate plats of the survey of the land applied for, duly verified by the oaths of himself and the surveyor. Such plats shall be made on tracing linen and on a scale of 100 feet to 1 inch; they shall be provided with a margin sufficient to contain the oaths of the entryman and the surveyor and the approval of the Secretary of the Interior; they must state the name of the city or town, describe the exterior boundaries thereof according to the lines of public surveys, exhibit the streets, squares, blocks, lots, and alleys, and must specifically set forth the size of the same, with measurements and area of each municipal subdivision; and if the survey was made subsequent to May 2, 1890, the plats must also show that the provisions of the first proviso of the section of the act under consideration have been complied with, viz, the setting apart of "reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than 10 nor more than 20 acres."

5. It is of the utmost importance that all plats of town sites should be correct. The size of each lot should be stated, and if the lot is irregular in shape the width at each end should be indicated; the width of each street and alley should be marked, and the dimensions, together with the area of the reservations and parks, indicated.

Whenever an entry is made adjacent to a town already in existence the streets must conform to the streets already established; and this must be stated in the affidavit of the surveyor. The affidavit of the surveyor shall also contain a statement of what tract of land is surveyed as the town site and that the tracts reserved for public purposes contain the requisite amount of land.

The affidavit of the party applying to make the entry shall embrace the statement that the application to enter the described tract of land as the town site of —— is made under the provisions of the second proviso to section 22 of the act of May 2, 1890, entitled "An act to provide a temporary government for the Territory of Oklahoma," etc., that all streets, alleys, parks, and reservations are dedicated to public use and benefit, and that the plat is correct according to the survey made by the proper surveyor.

6. At the time of submitting proof and filing the triplicate plats the claimant shall tender to the receiver the purchase price of the land applied for, exclusive of the portions reserved for parks, schools, and other public purposes (which are to be patented as a donation to the town when organized as a municipality, for the specific purposes for which they were reserved), payment to be made by draft on New York made payable to the order of the Secretary of the Interior, at the rate of $10 per acre for that portion of the land actually entered.

The register and receiver will thereupon transmit the proof and triplicate plats to this office for examination and the approval of the Secretary of the Interior, together with the application to make entry and their joint report as to the status of the land applied for, and at the same time they will transmit to the Secretary of the Interior the draft tendered in payment for the land, making references in each letter to the other.

7. When the proof and triplicate plats are received by this office, if found to be regular and in accordance with these regulations, they will be forwarded to the Secretary of the Interior with recommendation that the plats be approved.

Should the triplicate plats be approved, and receipt of the purchase price of the land be acknowledged by the Secretary, one of said approved plats will be retained in this office and the other two will be returned to the district land office with directions to the register to issue final certificate for the land embraced in said approved plats (exclusive of the lands to be donated and maintained for public purposes as heretofore provided). Receipt of the purchase money having been acknowledged by the Secretary of the Interior, no final receipt will be issued by the receiver. One of the approved plats returned to the register and receiver will be retained in their office and the other they will deliver to the applicant to be by him filed and made of record in the office of the recorder of deeds of the county in which the town is situated.

8. Upon the issuance of final certificate the register and receiver will note on their records the commutation of the applicant's homestead entry, in whole or in part, as the case may be. When patent is ready for delivery the entryman will be required to surrender his duplicate homestead receipt for transmittal to this office if the entire homestead entry is commuted, or to deliver the same to the register and receiver

to have the commuted town-site entry noted thereon and returned to the entryman if the homestead entry is commuted in part only, before said patent will be delivered.

9. The foregoing regulations will be observed in all cases in which the entry and claimant's application to commute for town-site purposes are free from protest, contest, or other adverse proceedings. But in all cases in which, at the time of submitting proof, or prior thereto, a protest or an affidavit of contest is filed, the register and receiver will take appropriate action on such protest or contest in accordance with the prevailing practice in ordinary homestead, commutation, or final-proof cases before transmitting the papers to this office, and should such action be adverse to the application to commute, or favorable thereto, and an appeal be filed by the contestant, they will not require tender of the purchase price of the land sought to be purchased for town-site purposes until they are advised of the final determination of such protest or contest proceedings by this office or the Department favorable to the application to purchase. When so advised they will require the applicant to make immediate tender of the purchase money, which they will transmit to the Secretary of the Interior and advise this office thereof as hereinbefore provided.

Protest or contest affidavits filed in the district land office after the transmittal of the proof and triplicate plats to this office will not be considered by the register and receiver, but must be promptly transmitted to this office for appropriate action. After the approval of the triplicate plats by the Secretary of the Interior no protest or contest relating thereto will be entertained by the district land office or this office, but should one be filed with the register and receiver it will be forwarded to this office, to be transmitted to the Secretary of the Interior for appropriate action.

10. In all contested cases the contestant will be required to file in the district land office a sworn and corroborated statement of his grounds of action, and that the contest is not initiated for the purpose of harassing the claimant and extorting money from him under a compromise, but in good faith to prosecute the same to a final determination, and if the allegations therein contained are considered sufficient to warrant the ordering of a hearing the same will be ordered upon compliance by the contestant with the condition that he shall deposit a sufficient sum to cover the cost thereof.

Notice of actions or decisions in all matters affecting an entry, or an application to commute for town-site purposes, under the foregoing instructions, and the proof thereof, shall be the same as in ordinary cases; and any person feeling aggrieved by the judgment of the register and receiver in such matters may, within thirty days from notice thereof, appeal to this office. Within the time allowed for filing an appeal the appellant shall serve a copy of the same on the appellee, who will be allowed ten days from such service within which to file his brief and argument.

Appeals from the decisions of this office lie to the Secretary of the Interior the same as in other matters of like character, such appeal and service thereof to be filed within sixty days from notice of the decision of this office from which appeal is taken, in accordance with the Rules of Practice.

Motions for review of the decisions of the district land office shall be filed and served within the time allowed for appeal, and motions for review of the decisions of this office and of the Secretary of the Interior shall be filed and served within thirty days from notice thereof.

11. The act under consideration provides that the sums received by the Secretary of the Interior for commuted town-site entries shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only..

Before the money can be paid over there must be satisfactory evidence that the municipality has been organized as required by the laws of Oklahoma.

In support of an application by the proper municipal officers for payment of the money deposited with the Secretary of the Interior for a particular commuted town-site entry the following evidence shall be furnished:

First. A duly certified copy, under seal of the order of the board of county commissioners, declaring that the specified territory shall, with the assent of the qualified voters, be an incorporated town; also the notice for a meeting of the electors, as required by paragraph 5 of article 1, chapter 16, of the statutes of Oklahoma.

Second. A like certified copy of the statement of the inspectors filed with the board of county commissioners, also a like certified copy of the order of said board, declaring that the town has been incorporated, as provided by paragraph 9 of said article 1.

Third. A like certified copy of the statement of the inspectors, filed with the county clerk, declaring who were elected to the office of trustees, clerk, marshal, assessor, treasurer, and justice of the peace, as provided by paragraph 16 of said article 1.

Fourth. A like certified copy, by the town clerk, of the proceedings of the board of trustees electing one of their number president; also a copy of the qualifications to act, by each of the officers mentioned, as provided by paragraph 19 of said article 1.

Fifth. A certified copy, by the town clerk, of the proceedings of the board of trustees, designating some officer of the municipality to make application for and to receive the money to be paid by the Secretary of the Interior.

Sixth. A proper application for the money by said designated officer.

Said application shall be addressed to the Secretary of the Interior and may either be filed in the district land office for transmittal to this office or forwarded by the municipal authorities direct to this office. When the same is received by this office, if the application and accompanying evidence are in accordance with the requirements herein mentioned, it will be transmitted to the Secretary of the Interior and when approved by him the money will be paid over to the designated officer to be used by the municipality for school purposes only as required.

12. When the towns herein provided for are organized as municipalities, applications, accompanied by proof of municipal organization similar to that provided in the preceding paragraph, shall be made for patents for the reservations which the act under consideration provides shall be made for parks, schools, and other public purposes, and which are to be donated to the municipalities when duly organized as such.

The application for patent shall be made by the mayor or other proper municipal authority; shall be addressed to the Secretary of the Interior, and shall particularly describe the reservations to be patented according to the approved plats of said town site. Said application shall be filed in the district land office, and if the register and receiver find the accompanying evidence of municipal organization and authority to make application to be in accordance with these regulations, the register will issue certificate thereon, of the prescribed form (p. 301).

When such certificate is examined and approved by this office patent will issue in accordance therewith.

The regulations of July 18, 1890 (11 L. D., 68), and subsequent modifications thereof, inconsistent herewith, are hereby revoked (19 L. D., 348).

PUBLIC LANDS IN GREER COUNTY, OKLA.

Special provision has been made for the disposal of the public lands in Greer County, Okla., by acts of Congress of January 18, 1897 (29 Stat., 490, Appendix No. 73, p. 245), and March 1, 1899 (30 Stat., 966, Appendix No. 81, p. 258).

Section 1 of the act of January 18, 1897, provides that every person qualified under the homestead laws of the United States who on March 16, 1896, was a bona fide occupant of land within the territory established as Greer County, Okla., shall be entitled to continue his occupation of such land with improvements thereon, not exceeding 160 acres, and shall be allowed six months' preference right from the passage of this act within which to initiate his claims thereto. Time extended to January 1, 1898, by amendatory act of June 23, 1897 (30 Stat., 105).

By the act of Congress approved March 1, 1899, section 1 of the act of January 18, 1897, was so amended as to allow parties who have had the benefit of the homestead laws of the United States and who had purchased lands in said county from the State of Texas, prior to March 16, 1896, to perfect title to said lands according to the provisions of the act of January 18, 1897, provided that no adverse rights may have attached to such lands.

A party desiring to make a homestead entry under this section must present his formal application with the usual affidavits, accompanied by the fee and commissions required in an entry of minimum land, and a special affidavit showing that he was, on March 16, 1896, a bona fide occupant of the land he applies to enter. Title may be perfected at the expiration of five years from date of entry or within two years thereafter under the provisions of the homestead law, or such person may receive credit for all time during which he or those under whom he claims have continuously occupied the land prior to March 16, 1896. Every such person shall also have the right for six months prior to all other persons to purchase at one dollar an acre, in five equal annual payments, any additional land of which he was in actual possession on March 16, 1896, not exceeding 160 acres, which, prior to said date, had been cultivated, purchased, or improved by him.

A party wishing to avail himself of the above privilege must present his application to purchase (Form 4–001), together with the prescribed amount of purchase money for the land desired, which need not be contiguous to his homestead entry, together with evidence showing that he had prior to March 16, 1896, cultivated, purchased, or improved the same. Evidence of cultivation or improvement must consist of the affidavit of the applicant, corroborated by the testimony of two or more witnesses, or, in case the claim is based on purchase, an abstract of title, or other documentary evidence showing the transfers under which the party claims as purchaser. No certificate can be issued until the entire amount of the purchase money shall have been paid, but the receiver will issue his receipt (Form 4–140a), properly modified, for the amount paid and deliver a duplicate thereof to the purchaser.

When any person entitled to a homestead or additional land, as above provided, is the head of a family and though still living, shall not take such homestead or additional land within six months from the passage

of this act, any member of such family over the age of 21 years, other than husband or wife, shall succeed to the right to take such homestead or additional land for three months longer, and any such member of the family shall also have the right to take, as before provided, any excess of additional land actually cultivated or improved prior to March 16, 1896, above the amount to which such head of the family is entitled, not to exceed 160 acres to any one person thus taking as a member of such family. such family.

Application for homestead or additional entry under this provision must be made in the same manner as heretofore prescribed.

In case of the death of any settler who actually established residence and made improvement prior to March 16, 1896, the entry may be made by the party in interest, according to section 2291, United States Revised Statutes.

Section 2 provides for the disposal of all land in said county not occupied, cultivated, or improved, as provided in section 1, or not included within the limits of any town site or reserve, to actual settlers only, under the provisions of the homestead law.

Any person applying to make entry under this section prior to the expiration of the preference right granted by section 1 will be allowed to make entry, subject to any valid adverse right under said section 1, on filing his affidavit that the land applied for is not occupied, cultivated, or improved by any other person.

Section 3 provides that the inhabitants of any town located in said county shall be entitled to enter the same as a town site under the provisions of sections 2387, 2388, and 2389 of the Revised Statutes. Instructions relative to entry of town sites under said sections of the Revised Statutes are found in circular of this office dated July 9, 1886, (5 L. D., 265). Under the proviso to this section of the law the corporate authorities of the town or the judge of the county court who shall enter the town site shall accord to all persons a preference right to the town lots upon which they have made or own improvements.

By section 4, sections numbered 16 and 36 are reserved for school purposes, as provided in laws relating to Oklahoma; and sections 13 and 33 in each township are reserved for such purpose as the legislature of the future State of Oklahoma may prescribe. That whenever any of the lands reserved for school or other purposes under this act, or under the laws of Congress relating to Oklahoma, shall be found to have been occupied by actual settlers or for town-site purposes or homesteads prior to March 16, 1896, an equal quantity of indemnity lands may be selected as provided by law.

Under section 5, the right of entry to land within said county, which on March 16, 1896, was occupied for church, cemetery, school, or other charitable or voluntary purposes, not for profit, is given to the proper authorities in charge thereof.

In each case the maximum area to be so entered is 2 acres. Sections numbered 16 and 36, within each township within said county, are reserved by section 4 of this law for school purposes, and are exempted from the operations of this section.

It will not be practicable for the register and receiver to locate land applied for under this section with the certainty required for an entry. They will, then, upon the presentment of such an application, forward the same to this office for appropriate action.

Section 7 provides that all laws authorizing commutations of homesteads in Oklahoma shall apply to Greer County. This makes applicable section 22 of the act of May 2, 1890 (26 Stat. L., 81), where the commutation of a homestead entry for town-site purposes is sought.

Instructions relative to procedure under said section 22 of the said act are found in circular of this office dated November 30, 1894. (19 L. D., 348.)

Commutation of homestead entries under section 7 of this act, except for town-site purposes, will be governed by the provisions of section 21, act of May 2, 1890 (26 Stat. L., 81), which requires the payment of $1.25 per acre and proof of compliance with the homestead law for not less than twelve months from date of locating upon said homestead.

Under the amendatory act the applicant, instead of stating that he has not had the benefit of the homestead laws of the United States, will only be required to state that he has not made a homestead entry of lands in Greer County, pursuant to the provisions of the act of January 18, 1897. Under the terms of this amendatory act, and the authority to prescribe regulations thereunder, a preference right for a period of six months from March 1, 1899, is extended to the class provided for in said act. (See 28 L. D., 274.)

The affidavit of the applicant under the amendatory act to the effect that no adverse rights existed to the lands applied for on March 1, 1899, will be sufficient upon which to allow the application, if no claim therefor has been filed in the local office.

The manner of making entry or purchase under the amendatory act and the character of proof evidencing a purchase from the State of Texas will be the same as that governing entry or purchase under the act of January 18, 1897.

DISPOSAL OF THE GREAT SIOUX INDIAN RESERVATION.

Attention is called to the provisions of an act of Congress, approved March 2, 1889 (25 Stat. L., 888), entitled "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes." (Appendix No. 33, p. 189.)

The first six sections of said act set apart certain tracts for separate reservations.

The seventh section provides for allotments to certain members of the Santee Sioux tribe of Indians upon the reservation occupied by them in Nebraska; confirms all allotments to said Indians heretofore made upon said reservation, and provides for allotments, or payments in lieu thereof, to the members of the Flandreau band of Sioux Indians.

The eighth, ninth, tenth, eleventh, and twelfth sections provide for the allotment in severalty of the lands embraced in the separate reservations established by the act, and for the purchase and disposal by the United States of lands embraced therein at some future time.

The thirteenth section provides that any Indian receiving and entitled to rations and annuities at either of the agencies mentioned in the act at the time the same shall take effect, but residing upon any portion of said Great Reservation not included in either of the separate reservations established by said act may, at his option, within a stated time, have the allotment to which he would be otherwise entitled on one of said separate reservations upon the land where such Indian may then reside.

The registers and receivers are therefore directed to exercise every care and precaution to prevent the entry or filing for any lands in said Great Reservation which are in the occupancy of Indians entitled to allotments under the provisions of said act, which occupancy is to be protected to the full extent of the rights granted to the Indians therein.

The occupancy and possession of the Indians are regarded as sufficient notice of their rights to all parties concerned.

The registers and receivers are instructed to advise all parties intending to become settlers, either as agriculturists or under the town-site laws, of the extent of the rights of the Indians and of the impossibility of their acquiring rights in conflict therewith, and impressing on them the wrong and injustice of seeking to interfere with the Indians in their rightful occupancy of the lands, and that they can gain nothing thereby.

Section 14 provides for regulations whereby the use of water necessary for agricultural purposes upon the separate reservations provided for by the act may be secured.

Section 15 ratifies and makes valid all allotments of land taken within or without the limits of any of the separate reservations established by this act, in conformity with the provisions of the treaty with the Great Sioux Nation concluded April 29, 1868. (15 Stat. L., 635.)

Section 16 provides that the acceptance of the act shall release the Indian title to said Great Reservation, with the exceptions hereinbefore named, and also for certain railroad rights.

Section 17 provides for schools, stock, and seeds for the Indians, punishment for trading with the Indians, and appropriation and expenditure of a permanent fund for the Indians.

Section 18 grants to religious societies, with certain limitations, any land in said Great Reservation occupied for religious purposes. Said tracts are therefore reserved from disposal under the provisions of this act.

Section 19 provides that the provisions of the said treaty concluded April 29, 1868, not in conflict with the provisions of this act are continued in force, and section 20 provides for schoolhouses for the Indians.

Section 21 restores to the public domain the Great Sioux Reservation, with the exception of American Island, which is donated to Chamberlain, S. Dak.; Farm Island, which is donated to Pierre, S. Dak.; Niobrara Island, which is donated to Niobrara, Nebr., and the separate reservations described in said act, and provides for the disposal of said restored lands to actual settlers only, under the provisions of the homestead law, with certain modifications, and under the law relating to town sites. Provision is made that each settler shall pay for the land taken by him, in addition to the fee and commissions on ordinary homesteads, $1.25 per acre for all lands disposed of within the first three years after the taking effect of the act, and the sum of 75 cents per acre for all lands disposed of within the next two years following thereafter, and 50 cents per acre for the residue of the lands then undisposed of. Said additional amount should not be collected when the original entry is made, but is required to be paid when final proof is tendered. The act was declared to be in full force and effect by the President's proclamation of February 10, 1890. (Appendix No. 34, p. 201.)

The price which actual settlers are required to pay for said lands becomes fixed at the date of original entry, and any subsequent settler of land so entered and afterwards abandoned will be required to pay the same amount per acre as the settler who made the first entry.

The general rules and regulations as to the homestead entries will apply to entries on these lands, except such modifications as are required by the provisions of said act of March 2, 1889, as herein noted.

The rule laid down on page 49 of this circular as to soldiers' and sailors' additional entries in Oklahoma is also applicable as to such entries for these lands.

It was provided in said act of March 2, 1889, that section 2301 of the Revised Statutes should not apply to these lands; but by section 6 of

the act of March 3, 1891 (26 Stat. L., 1095), the provisions of said section 2301 as thereby amended were made applicable to said lands, with the proviso that settlers should not be relieved from any payments thus required by law.

Entries for these lands may therefore be commuted in accordance with the rules given on page 24 of this circular, and upon the payment of any further sum required by law, including final homestead commissions.

Under the act of March 3, 1899, persons who prior thereto settled on the Sioux Indian lands opened to settlement by the act of March 2, 1889, may secure patents for the land embraced within their entries by making the payments required by section 21 of said act of 1889, without further payment, whether the proof and payment be made in fourteen months or five years from the date of settlement.

In allowing town-site entries upon these lands the regulations contained in the circular of instructions relative to town sites on public lands of July 9, 1886 (5 L. D., 265), will govern.

Registers and receivers are instructed to report filings and entries upon said lands in a separate, distinct, and consecutive series, and on separate abstracts, commencing with number one in each series, and report and account for the money received on account thereof in separate monthly and quarterly returns.

Provision is also made in said section 21 of this act for the purchase by the Government of the lands unsold at the end of ten years from the taking effect of the act, for the reservation of highways around every section of said lands, and for the removal of Indians from the islands named in the section.

Section 22 provides for the disposition of the proceeds of sales of said lands.

Section 23 provides for entry, under the homestead, preemption, or town-site laws, within ninety days after the taking effect of the act, by parties who, between February 27, 1885, and April 17, 1885, entered upon or made settlements with intent to enter the same, under said laws, upon certain lands of said Great Reservation therein named; but such settlers are required to comply with the laws regulating such entries, and, as to homesteads, with the special provisions of the act, before obtaining title to the lands, and preemption claimants are required to reside on their lands the same length of time before procuring title as homestead claimants under this act.

Each applicant, under the provisions of this section, will be required to show by affidavit, corroborated by two witnesses, that he is qualified to make entry under said provisions, giving in full all the facts in connection with his alleged entry or settlement between said dates.

Section 24 reserves sections 16 and 36 in every township of said lands for the use and benefit of the public schools, and therefore no entries or filings upon said sections can be allowed.

Section 25 appropriates money for the survey of said lands; section 26 provides that all expenses for the survey, platting, and disposal of said lands shall be borne by the United States; section 27 appropriates money to pay for ponies taken from the Indians; section 28 declares the method by which the act shall become effective; section 29 appropriates money to be used in obtaining the assent of the Indians to the provisions of the act, and section 30 repeals all acts or parts of acts inconsistent with the provisions of the act.

"RESERVOIR LANDS" IN WISCONSIN AND MINNESOTA DISPOSED OF UNDER SPECIAL ACT.

The act of Congress approved June 20, 1890 (26 Stat. L., 169; Appendix No. 39, p. 214), entitled "An act to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain subject to entry under the homestead law, with certain restrictions," made provision for the entry of lands so restored.

The statute, by its terms, did not take effect until December 20, 1890. No entry for or settlement upon said lands could be allowed before that date, and the lands were made subject to entry under the homestead law only. (See "Homesteads," p. 11 et seq.)

Any person applying to enter or file for a homestead on said lands was required first to make affidavit, in addition to other requirements, that he did not violate the law by entering upon and occupying any portion of said lands prior to December 20, 1890, the affidavit to accompany the official returns for the entry allowed. (Form No. 4–102a, p. 285.)

RIGHTS OF SETTLERS WITHIN RAILROAD LIMITS UNDER ACT OF JANUARY 13, 1881.

Settlers within railroad limits who have purchased from a railroad company lands in railroad sections which are afterwards for any cause restored to the public domain are entitled to make entry of the lands so occupied by them, under the general provisions of the settlement laws.

If they have exhausted their homestead, preemption, and timber-culture rights, they are allowed, under the act of January 13, 1881 (21 Stat. L., 315; Appendix No. 22, p. 180), to purchase from the United States within three months after restoration, at $2.50 per acre, not exceeding 160 acres of land, which they settled upon and improved with the expectation of purchasing from the company.

Every person applying to make entry under the act of January 13, 1881, must make and subscribe the following affidavit:

I, ——— ———, of ———, claiming the right to enter the ——— of section ——, township ———, range ———, under the provisions of the act of Congress approved January 13, 1881, entitled "An act for the relief of certain settlers on restored railroad lands," do solemnly ——— that I was an actual settler on said tract at the time of the restoration thereof to the public domain of the United States, to wit, on the —— day of ———, 18—; that prior to said time I had made valuable and permanent improvements on the land; that my settlement was made in good faith and with the permission or license of the ——— Railroad Company, and with the expectation of purchasing said land from said company, and that I am not entitled to enter and acquire title to said land under the preemption, homestead, or timber-culture laws of the United States for the reason that ———; and that my improvements on said land at the date of the restoration thereof to the public domain consisted of ———.

The foregoing affidavit may be made before the register or receiver or any officer authorized to administer oaths in the county in which the lands are situated. It must be supported by satisfactory evidence that the settlement was made with the permission or license of the railroad company, and with the expectation of purchasing the land from said company. The testimony of two competent witnesses will be required, showing that applicant's settlement was made prior to the restoration of the land, and stating the value and extent of his or her improvements. (Circulars of January 28, 1881, and April 30, 1886.)

ADJUSTMENT OF RAILROAD GRANTS AND DISPOSAL OF LANDS WITHIN RAILROAD LIMITS UNDER SPECIAL ACTS.

In reference to the act of Congress of March 3, 1887 (24 Stat. L., 556; Appendix No. 31, p. 185), providing for the immediate adjustment, by the Secretary of the Interior, of land grants for railroads, with provisions in favor of actual settlers and of innocent purchasers from the railroad companies, in cases indicated therein, and in accordance with prescribed principles, the following instructions were issued by the Secretary to the Commissioner of the General Land Office, November 22, 1887 (6 L. D., 276):

The act of March 3, 1887, authorizes and directs the Secretary of the Interior to immediately adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads, and heretofore unadjusted.

The second section of said act provides—

> That if it shall appear, upon the completion of such adjustments respectfully [respectively], or sooner, that lands have been, from any cause, heretofore erroneously certified or patented by the United States to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall be made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title thereof to the United States.[1]

The provision contained in this section confers no greater power upon the Secretary of the Interior than he possessed before the passage of that act, and which from time to time has been exercised by that official in recommending to the Attorney-General that suits be brought to cancel patents appearing to have been erroneously certified or patented for the benefit of any railroad company.

The purpose of the act was to make that mandatory which before rested in the discretion of the Secretary in the exercise of his authority over the public lands. Heretofore the Secretary of the Interior might recommend and request the Attorney-General to institute suits for the cancellation of patents which, in his judgment, were erroneously issued for the benefit of any railroad company under its grants, and the Attorney-General, in the exercise of his authority, might grant or refuse such request as in his judgment might seem proper; but under the act above referred to, whenever it shall appear upon the completion of the adjustment of any railroad land grant, or sooner, that any lands have been erroneously certified or patented for the benefit of said company, it is made the imperative duty of the Secretary of the Interior to demand of said company a relinquishment or reconveyance to the United States of all such lands; and if the company neglects or fails to reconvey the same it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts necessary proceedings to cancel the patents for said lands, and to restore the title thereof to the United States.

Therefore, if in the adjustment of the grant of any road it should appear from the records in your office that any lands within either the granted or indemnity limits of such road have been erroneously certi-

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[1] See page 70 as to amendatory act of March 2, 1896.

fied or patented for the benefit of such company, either from an improper adjustment of the limits of said grant or from the erroneous cancellation of any filing or entry, or from any cause whatever, you will report such facts to the Department for action thereon, stating fully and specifically the grounds upon which it is supposed such tracts were erroneously certified or patented and whether said tracts are within the granted or indemnity limits of said road.

The third section of said act provides—

> That if, in the adjustment of said grants, it shall appear that the homestead or preemption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws: *Provided,* That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also,* That he did not voluntarily abandon said original entry: *And provided further,* That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

This section does not embrace any lands that have been certified or patented to the company, but has reference solely to lands the right and claim to which has heretofore been adjudicated in favor of the company as against the right of a settler upon said lands, and which are still under the control and jurisdiction of the Department. The object and purpose of this section is to correct all decisions made by the Department or the General Land Office where it shall appear in the examination of any land grant heretofore unadjusted that the homestead or preemption entry of a bona fide settler was erroneously canceled. In such case a final decision of a former or the present Secretary is not only no longer a bar to the further consideration of the question decided, but it is made the duty of the Secretary to readjudicate the case, notwithstanding the former decision, whenever it appears that the preemption or homestead entry of any bona fide settler has been erroneously canceled on account of any railroad grant or of withdrawal of public lands from market.

In the adjustment of each grant to aid in the construction of railroads, the Commissioner of the General Land Office will make report upon all preemption and homestead entries of bona fide settlers that may in his judgment appear from the records to have been erroneously canceled either because the land is within the limits of the railroad grant or because it has been withdrawn for indemnity purposes for said road, provided the right to the tract has been decided in favor of the company, and forward said report to the Department for consideration and action thereon, stating fully and specifically as to each particular tract, the grounds upon which he may determine that said preemption and homestead entries were erroneously canceled, and the right to the land erroneously decided in favor of the company; and upon filing said report he will cause notice thereof to be given to both parties, advising them that said case will be held by this Department for thirty days before action, during which time they can make such showing as they may desire.

If in such report he should determine that the preemption or homestead entry of any bona fide settler has been erroneously canceled and the right to the land adjudged in favor of the railroad and his decision thereon shall be sustained by the Department, after due notice the land will then be subject to disposal as provided for in said section;

that is, the settler whose entry was erroneously canceled will be notified of his right to make application to be reinstated in all his rights, and if such settler shall make such application within a reasonable time, to be fixed by the Secretary of the Interior in such notice, he shall be reinstated in all his rights: *Provided*, That he shows affirmatively that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry. If said settler should fail to make application within the time required, and to show that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon. The bona fide purchasers here referred to are those who, without knowledge of wrong or error, have purchased from the railroad company lands which had been previously entered by the preemption or homestead settler, whose entry has been erroneously canceled as described in the first clause of the third section, and which land the preemption or homestead settler did not elect to claim after recovery by the proceedings prescribed by the second section of the act.

As to the lands which have been erroneously certified or patented to the company (being the lands referred to in the second section), the fourth section of the act provides for the disposal of such of those lands as may have been sold by the company to citizens of the United States or persons who have declared their intention to become such citizens, upon the following conditions:

After said lands shall have been reconveyed to the Government or the title to the same recovered, the class of persons above referred to so purchasing in good faith, their heirs or assigns shall be entitled to the lands so purchased upon making proof of such purchase at the proper land office within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted, and patent shall issue to such persons, which shall relate back to the original certification or patenting. The section then provides that the Secretary of the Interior shall demand of the company payment for said lands of an amount equal to the Government price of similar lands, and in case of the neglect or refusal of the company to make payment thereof within ninety days after demand, the Attorney-General shall cause suits to be brought against the company for said amount. Under the act the purchaser of such lands from the company may recover from the company the purchase money paid by him less the amount paid by the company to the United States.

A mortgage or pledge of said lands by the company is not a sale within the meaning of the act.

The object of this section is to confirm to the purchaser the title to the lands therein referred to upon making proof of such purchase, and that the purchaser has the qualifications required by the act without requiring of the purchaser any further payment to the Government of the purchase price of said lands.[1]

The fifth section of said act reads as follows:

That where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the

[1] See page 70 as to amendatory act of February 12, 1896.

numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary Government price for like lands, and thereupon patents shall issue therefor to the said bona fide purchaser, his heirs or assigns: *Provided,* That all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona fide occupation of adverse claimants under the preemption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said preemption and homestead claimants shall be permitted to perfect their proofs and entries and to receive patent therefor: *Provided, further,* That this section shall not apply to lands settled upon subsequent to the 1st day of December, 1882, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

Under this section, when the company has sold to citizens of the United States or persons who have declared their intention to become such citizens, the numbered sections prescribed in the grant and coterminous with the constructed portions of the road, within either the granted or indemnity limits, and which upon the adjustment of the grant are shown to be excepted from the operation of the grant, it shall be lawful for such purchasers (if their purchases are bona fide) to purchase said lands from the Government by payment of the Government price for like lands, unless said lands were at the date of purchase in the bona fide occupation of adverse claimants under the preemption or homestead laws, in which case the preemptor or homestead claimant may be permitted to perfect his proof unless he has since voluntarily abandoned the land.

Under the last proviso of said section, however, if a settlement was made on said lands subsequent to December 1, 1882, by persons claiming the same under the settlement laws of the United States, it will defeat the right of the purchaser, whether said purchase was made prior to or subsequent to December 1, 1882, and the settler will be allowed to prove up for said lands as in other like cases.

The sixth section provides that when any such lands have been sold and conveyed as the property of the company for State and county taxes, and the grant to the company has been thereafter forfeited, the purchaser at such sale shall have the preference right for one year from the date of the act in which to purchase said lands from the United States by paying the Government price for said lands, provided said lands were not, previous to or at the time of the taking effect of such grant, in the possession of or subject to the right of an actual settler.

The seventh section provides:

That no more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which such State, corporation, or individual would be rightfully entitled.

The following instructions under the act of Congress approved March 3, 1887 (24 Stat. L., 556), were issued February 13, 1889 (8 L. D., 348):

THE FIRST SECTION directs that all railroad land grants not adjusted heretofore shall be adjusted immediately, that is, without unnecessary delay. The duties thereunder pertain to the General Land Office and Department of the Interior.

THE SECOND SECTION provides for the recovery by the United States of title to lands which from any cause have been erroneously certified or patented "to or for the use or benefit of any company" on account of a railroad grant, whenever the fact may be ascertained that a certificate or patent has been erroneously issued, and prescribes the duties of the Secretary of the Interior and Attorney-General in connection therewith.

THE THIRD SECTION provides "that if in the adjustment of said grants it shall appear that the homestead or preemption entry of any bona fide settler has been erroneously canceled on account of any railroad grant, or the withdrawal of public lands from market, such settler, upon application, shall be reinstated in all his rights, and allowed to perfect his entry by complying with the public land laws: *Provided*, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And providea also*, That he did not voluntarily abandon said original entry: *And provided further*, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed land, if any; and if there be no such purchasers, then to bona fide settlers residing thereon."

Three classes of persons are provided for under this section.

First. Bona fide settlers whose homestead or preemption entries have been erroneously canceled on account of a railroad grant or withdrawal.

Second. Bona fide purchasers of such unclaimed lands.

Third. Bona fide settlers residing thereon.

The rights of the several classes to the lands referred to in the section are successive in the order stated in the section. The first in right is the homestead or preemption settler whose entry has been wrongfully canceled. If he elects to assert his right, and has not been disqualified by locating another claim or making another entry in lieu of the entry erroneously canceled, his right is absolute, and the successive rights of the remaining two classes can not attach if he lawfully asserts his claim. If he fail to claim the land, or is disqualified under the act, the second class of persons, who are the bona fide purchasers of the land unclaimed by him, attach, and have precedence over the third class. The bona fide purchasers here referred to are those who, without knowledge of wrong or error, have purchased from the railroad company lands which have been previously entered by a preemption or homestead settler, whose entry has been erroneously canceled, as described in the first clause of the third section, and which land the preemption or homestead settler did not elect to claim after the recovery by the proceedings prescribed by the second section of the act.—*Attorney-General's Opinion, November 17, 1887 (6 L. D., 272)*.

Parties of the first class desiring to avail themselves of the benefits of this section should present their applications without unnecessary delay, after notice of intention as required by the act of March 3, 1879, in preemption and homestead cases. The application must in every instance be accompanied by proof showing—

1. The facts respecting the date of the applicant's settlement, duration of residence, and value of improvements upon the land.

2. Whether he has located any other claim under any of the laws of the United States authorizing settlements upon public lands.

3. Whether he has abandoned the land embraced in his canceled entry or filing; if so, the causes which led to the abandonment.

4. Whether any other person or persons are residing upon the land.

5. That such persons as may be so residing upon the land have been notified of the intention of the claimant to apply for the reinstatement of his filing or entry, and the manner of giving such notice must be shown.

Should an adverse claimant appear to dispute or contest the right of reinstatement, proceedings will be had in accordance with Rules of Practice as in ordinary contests.

While the act contains no provision relative to persons whose entries or filings have not been canceled, but whose lands have been certified or patented on account of railroad grants, it follows as a matter of course that their rights should be protected, and the mode of procedure in such cases will be the same as in the cases where cancellation has been made, except that the parties should apply to make final proof and payment instead of for reinstatement of entry; but in such case proceedings will be deferred until the title has been restored to the United States, as provided by section 2 of the act. The instructions of November 22, 1887, under this section, are hereby modified in accordance with the foregoing.

Proceedings on applications by parties of the second class will be governed by instructions under the fourth section.

Applicants of the third class will be required to submit evidence, in addition to that relating to their own settlement or claims, showing whether there are persons of the first or second class residing upon, in possession of, or claiming lands.

THE FOURTH SECTION relates to all lands which have been erroneously certified or patented on account of railroad grants, except those mentioned in the third section, and by the grantee company sold to citizens or to persons who have declared their intention to become citizens of the United States; and provides that after the title to such lands has been restored to the United States as contemplated by the second section of the act, persons who have purchased such land in good faith, their heirs or assigns, shall be entitled to the lands upon making proof at the proper land office, whereupon patents shall issue relating back to the date of the original certification

or patenting, and the grantee company will be required to pay the United States for such lands at the price at which other similar lands are legally held by the Government.

The purchaser from the company is not debarred by the act from recovering from the company the amount of purchase money paid by him, less the amount paid by the company to the United States for the land.

A mortgage or pledge of such lands is not a sale within the intention of the act.

No forfeiture is declared by this act against any land grant for conditions broken (and no entry is authorized for lands legally within such grant), but no rights of the United States on account of breach of conditions are waived by the act.

An applicant for land under this section will be required to publish notice of intention to make proof as in preemption and homestead cases, and the proof must show—

1. That he is or has declared his intention to become a citizen of the United States.
2. That he is a bona fide purchaser from the company or some person claiming title under it, and the character of the instrument conveying the land to him.
3. The amount of purchase money paid to the company.
4. What part, if any, of the purchase money paid to the company has been refunded to him or any person acting as his agent.
5. Whether he has instituted proceedings against the company for the recovery of any portion of the purchase money; if so, for what portion.
6. The value and character of the improvements, if any, made or acquired by him upon the land.
7. Whether there is any person of the first class under the third section entitled to the right of entry under the preemption or homestead laws.

Upon the submission of satisfactory proof as prescribed above the register will issue certificate in duplicate, numbered in the regular cash series, with annotations thereon showing that the entry is allowed without payment under the fourth section of the act of March 3, 1887. (24 Stat. L., 556.)

THE FIFTH SECTION relates to lands within the limits of railroad grants, coterminous with constructed portions of the lines of road, not conveyed on account of, but excepted from, the grants.

Under this section, when the company has sold to citizens of the United States or persons who have declared their intention to become such citizens, the numbered sections prescribed in the grant and coterminous with the constructed portions of the road, within either the granted or indemnity limits, and which upon the adjustment of the grant are shown to be excepted from the operation of the grant, it shall be lawful for such purchasers (if their purchases are bona fide) to purchase said land from the Government by payment of the Government price for like lands, unless said lands were at the date of purchase in the bona fide occupancy of adverse claimants under the preemption or homestead laws, in which case the preemptor or homestead claimant may be permitted to perfect his proof, unless he has since voluntarily abandoned the land.

Under the last proviso of said section, however, if a settlement was made on said lands subsequent to December 1, 1882, by persons claiming the same under the settlement laws of the United States, it will defeat the right of the purchaser, whether said purchase was made prior or subsequent to December 1, 1882, and the settler will be allowed to prove up for said lands as in other like cases.

Applicants to purchase under this section will be required to publish notice of intention as directed by instructions under the third and fourth sections, and the proof must show—

1. That the tract was of the numbered sections prescribed by the grant.
2. That it was coterminous with constructed parts of said road.
3. That it was sold by the company to the applicant, or one under whom he claims, as a part of its grant.
4. That it was excepted from the operation of the grant.
5. That at the date of said sale it was not in the bona fide occupancy of adverse claimants under the preemption or homestead laws, whose claims and occupancy have not since been voluntarily abandoned.
6. That it has not been settled upon subsequent to the 1st day of December, 1882, by any person or persons claiming the right to enter the same under the settlement laws.
7. That the applicant is, or has declared his intention to become, a citizen of the United States.
8. And that he, or one under whom he claims, was a bona fide purchaser of the land from the company.

The proof upon these points being found satisfactory, the entry will be allowed and the usual cash certificate and receipts will be issued thereon reciting the fact that the entry is in accordance with the fifth section of the act of March 3, 1887. (24 Stat. L., 556.)

No entry will be allowed under this section until it shall have been finally determined by this Department that the land was excepted from the grant.

THE SIXTH SECTION provides that when any such lands have been sold and conveyed as the property of the company for State and county taxes, and the grant to the company has been thereafter forfeited, the purchaser at such sale shall have the preference right for one year from the date of this act, and no longer, in which to purchase said lands from the United States by paying the Government price for said lands, provided said lands were not previous to or at the time of the taking effect of such grant in the possession of or subject to the rights of an actual settler.

The period prescribed by the statute for presenting applications under this section having expired, instructions as to methods of procedure are deemed unnecessary.

THE SEVENTH SECTION authorizes the Secretary of the Interior to refuse to certify or convey lands on account of any railroad grant where it shall appear to him that to do otherwise would give to the grantee more lands than the granting act contemplated giving.

The protection granted to settlers by the last proviso to section 5 of this act is restricted to those persons who in good faith settled upon the land subsequent to December 1, 1882, and prior to the passage of the act, in ignorance of the rights or equities of others in the premises. (11 L. D., 607.)

By act of Congress of March 2, 1896 (29 Stat., 42; Appendix No. 67, p. 240), the time within which suits might be brought to vacate patents erroneously issued under a railroad or wagon-road grant, as limited by section 8 of the act of March 3, 1891 (26 Stat., 1093), was extended to five years from the date of said act of March 2, 1896, if theretofore issued, and if thereafter issued to six years from the date of issue, with the additional provision that no patent to any lands held by a bona fide purchaser shall be vacated or annulled, but that the right and title of such purchaser is confirmed, suit in such case to be instituted against the corporation for the value of the land, which in no case shall be more than the minimum Government price thereof.

The word "purchaser," as used in the act of March 2, 1896, includes one who, under a subsisting contract of purchase made in good faith, holds lands erroneously patented or certified on account of a railroad grant, and title is confirmed in such a purchaser by said act, even though he may not have made all the payments called for under said contract of purchase.

On application for confirmation of the title held by an alleged bona fide purchaser, if such application for confirmation embraces land which was covered by a homestead or preemption entry that has been erroneously canceled on account of the railroad grant, such entryman will be notified and given opportunity to apply for reinstatement under section 3, act of March 3, 1887.

By the previous act of February 12, 1896 (29 Stat., 6; Appendix No. 66, p. 240), section 4 of the act of March 3, 1887, was amended by adding thereto the following proviso, viz:

Provided further, That where such purchasers, their heirs or assigns, have paid only a portion of the purchase price to the company, which is less than the Government price of similar lands, they shall be required, before the delivery of patent for their lands, to pay the Government a sum equal to the difference between the portion of the Government price so paid and the Government price, and in such cases the amount demanded from the company shall be the amount paid to it by such purchaser.

FOR THE RELIEF OF SETTLERS ON RAILROAD LANDS.

By the act of Congress approved June 22, 1874 (18 Stat. L., 194), an inducement was offered to such railroad companies as may be found entitled to lands embraced in filings and entries by settlers to relinquish in favor of such settlers, and receive other lands in lieu of those surrendered.

By the act of Congress approved August 29, 1890 (26 Stat. L., 369), the above-mentioned act was amended.

It appears to be the intention of this amendment to enlarge the class of cases in which relinquishment by the company will be permissible under the act of June 22, 1874, by removing the requirement that an entry or filing should have been allowed, thus aiding the adjustment of claims growing out of settlements made upon railroad lands subsequent to the attachment of the rights of the companies under the grants.

Upon the filing of a relinquishment under this act, it being shown that the person in whose favor it is made is entitled to the right of homestead or preemption, and has resided upon and improved the land for a period of five years, the register and receiver will permit entry to be made as in the case of other public lands, it being held by this Department that a relinquishment under the act of June 22, 1874, releases the land from all claim of the company, and it thereby becomes subject to disposal under the general land laws. (6 L. D., 716; 7 L. D., 481.)

The right to select indemnity under this act extends to any nonmineral public lands within the limits of the grant (18 L. D., 275); but the acceptance of the relinquishment does not amount to an approval of the selection based thereon (8 L. D., 472), as a relinquishment confers no right upon the company if the land covered thereby was, in fact, excepted from the grant. (10 L. D., 264.)

The relinquishment may be made by a simple waiver of claim when the land has not been certified or patented to, or for, the benefit of the company; but when the title has passed, formal reconveyance will be required.

This act is not mandatory upon the companies, and confers no right upon the settler, as against the company, in the absence of a relinquishment.

It simply provides a mode of adjustment dependent upon the voluntary action of the companies, and it is hoped that by a liberal and mutual spirit of compromise and concession the benefits intended for the settler may be made available. (11 L. D., 434.)

The act of Congress of April 14, 1896 (29 Stat., 91), enacted that authority be, and is hereby, given the New Orleans Pacific Railroad to relinquish any lands within the indemnity limits of its grant, which by decision of the Land Department of the Government has been awarded it, in favor of any settler entitled to the right of entry under the laws of the United States who has been allowed to make entry thereof, or who has resided upon and improved the same for five years, and to select in lieu thereof an equal quantity of other lands, from any of the public lands not mineral, and within the limits of its grant and not otherwise appropriated at the date of selection, to which it shall receive title the same as though originally granted.

RELIEF OF SETTLERS ON LANDS IN SECOND INDEMNITY BELT, NORTHERN PACIFIC GRANT.

The act of Congress entitled "An act for the relief of settlers on Northern Pacific Railroad indemnity lands," approved October 1, 1890 (26 Stat. L., 647; Appendix No. 41, p. 219), contains two sections.

By the first section of the act the right is given to those persons who, after August 15, 1887, and before January 1, 1889, settled upon, improved, and made final proof under the homestead and preemption laws, for lands within what is known as the second indemnity belt of

the grant for the Northern Pacific Railroad, to transfer their entries to any other vacant Government land they may select, in compact form, and subject to entry under the homestead and preemption laws, and to receive final certificates and receipts therefor, in lieu of the entries heretofore made in said second indemnity belt, provided the transfer be made within twelve months from the passage of the act.

In case of the death of any person so entitled, the transfer may be made by his legal representative.

The right given is personal and can not be transferred, nor can the transfer provided for in the act be made through the intervention of an agent or attorney; further, no transfer will be approved by the Land Department except where the proof made upon the original entry shows a satisfactory compliance with law in the matter of residence and improvement.

When application is made for such transfer, the register and receiver will require the applicant to make affidavit as to the facts in relation to his former entry, and whether he has received the return of the fees and commissions, or purchase money, paid upon said entry; and in the event that he has received such return they will require that he make payment anew for the land to which the transfer is made.

The second section provides for a similar transfer within one year from the passage of the act, where persons, possessing the requisite qualifications under the homestead or preemption laws, in good faith have settled upon and improved lands in said second indemnity belt, having made filing or entry of the same, and for any reason otherwise than voluntary abandonment, failed to make proof thereon. The entry or filing must have been allowed within the time specified in section 1.

In making proof upon the tract to which the transfer is made, credit will be given for the period of bona fide residence and amount of improvements made upon the tract heretofore entered or filed for in said second indemnity belt; but final entry will not be permitted except upon proof of continuous residence upon the land to which the transfer is made for a period of not less than three months prior to the making of proof.

When application is made for transfer under this section, the register and receiver will require that the party make affidavit as to the facts relative to the former entry or filing; and where the fees and commissions paid thereon have been returned, it will be necessary that he make payment anew before the allowance of the transfer.

Said affidavit must be corroborated by at least two witnesses having knowledge in relation to the party's residence and improvement upon the land from which the transfer is sought, and should satisfactorily show a compliance with the requirements of law to the extent claimed, as the same will necessarily form a part of the final proof for the land to which the transfer is made.

The corroborating affidavits may be made before any officer authorized to administer oaths.

Final payment upon entries and filings transferred under this section will be made as under existing laws. (Circular of November 7, 1890, 11 L. D., 435.)

Another act of Congress relative to Northern Pacific indemnity lands was approved June 3, 1896 (29 Stat., 245; Appendix No. 72, p. 244), as to which instructions were issued August 5, 1896, as follows, viz:

The act contains three sections.

By the first section those persons, their heirs or legal representatives, who between August 15, 1887, and January 1, 1889, settled upon and made final proof and entry for land within what is known as the second

indemnity belt of the Northern Pacific Railroad grant, within the State of Minnesota, which entries, without their fault, were afterwards canceled, are allowed to make homestead entry of a quantity of unappropriated public lands, subject to homestead entry, equal in acreage to that embraced in the canceled entry, and to receive patent therefor without settlement, improvement, or cultivation; and those persons, their heirs or legal representatives, who, between the dates aforesaid, for six months settled upon, improved, and cultivated any land within said second indemnity belt with a view to homestead or preemption entry, who, being qualified, were not permitted to make such entries, are allowed to enter under the homestead laws a quantity of land, unappropriated and subject to homestead entry, equal to that settled upon, improved, and cultivated; and, when making proof and final entry, are entitled to credit for the settlement, improvement, and cultivation of said indemnity land.

The entry authorized by this act must be made under the homestead law, and the fact that a claimant had previously made a homestead entry is no bar to an entry under it, provided he was qualified to make the entry made or intended to be made of said indemnity land, such land being within the State of Minnesota, and that he has not since made entry under and obtained the benefit of the homestead law; and in the event of an application to commute, the law applicable to commutations prior to the amendment of Section 2301 of the Revised Statutes, by the act of March 3, 1891, will govern.

Applicants of the first-class for entry under this section will be required to make affidavit as to the facts in relation to their former entries, and as to whether they have received back the fees and commissions or the purchase money paid upon such entries; and in case they have done so the register and receiver will require them to make payment for the land entered under this act.

Applicants of the second class will be required to make affidavit as to the facts relative to their settlement, residence on, and improvement of the indemnity land aforesaid, and where entry or filing was made to facts in relation thereto; and where fees and commissions have been returned it will be necessary that payment be made for any entry made under this section.

Said affidavits must be corroborated by at least two witnesses having knowledge of the facts set forth therein, and should satisfactorily show compliance with the requirements of the law to the extent claimed, as they will form a part of the final proof for the land sought.

Under the second section persons entitled to homestead entries under the first section may make such entries of any of the agricultural lands embraced in the provisions of the act of Congress approved January 14, 1889 (25 Stat., 642), entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," upon payment of $1.25 per acre therefor.

Under the provision of the third section the right of entry given by the act is personal and can not be transferred or assigned, but in case of death of the person entitled to enter, the entry may be made by his heirs or legal representatives; and no valid conveyance, sale, or transfer of the land entered can be made prior to the issue of patent.

By the act of July 1, 1898 (30 Stat., 620), provisions were made to facilitate the adjustment of conflicting claims to lands within the limits of the Northern Pacific grant as follows:

That where, prior to January first, eighteen hundred and ninety-eight, the whole or any part of an odd-numbered section, in either the granted or the indemnity limits of the land grant to the Northern Pacific Railroad Company, to which the

right of the grantee or its lawful successor is claimed to have attached by definite location or selection, has been purchased directly from the United States or settled upon or claimed in good faith by any qualified settler under color of title or claim of right under any law of the United States or any ruling of the Interior Department, and where purchaser, settler, or claimant refuses to transfer his entry as hereinafter provided, the railroad grantee or its successor in interest, upon a proper relinquishment thereof, shall be entitled to select in lieu of the land relinquished an equal quantity of public lands, surveyed or unsurveyed, not mineral or reserved, and not valuable for stone, iron, or coal, and free from valid adverse claim or not occupied by settlers at the time of such selection, situated within any State or Territory into which such railroad grant extends, and patents shall issue for the land so selected as though it had been originally granted, but all selections of unsurveyed lands shall be of odd-numbered sections, to be identified by the survey when made, and patent therefor shall issue to and in the name of the corporation surrendering the lands before mentioned, and such patents shall not issue until after the survey: *Provided, however,* That the Secretary of the Interior shall from time to time ascertain and, as soon as conveniently may be done, cause to be prepared and delivered to the said railroad grantee or its successor in interest a list or lists of the several tracts which have been purchased or settled upon or occupied as aforesaid, and are now claimed by said purchasers or occupants, their heirs or assigns, according to the smallest Government subdivisions. And all right, title, and interest of the said railroad grantee or its successor in interest in and to any of such tracts which the said railroad grantee or its successor in interest may relinquish hereunder shall revert to the United States, and such tracts shall be treated, under the laws thereof, in the same manner as if no rights thereto had ever vested in the said railroad grantee, and all qualified persons who have occupied and may be on said lands as herein provided, or who have purchased said lands in good faith as aforesaid, their heirs and assigns, shall be permitted to prove their titles to said lands according to law, as if said grant had never been made; and upon such relinquishment said Northern Pacific Railroad Company or its lawful successor in interest may proceed to select, in the manner hereinbefore provided, lands in lieu of those relinquished, and patents shall issue therefor: *Provided further,* That the railroad grantee or its successor in interest shall accept the said list or lists so to be made by the Secretary of the Interior as conclusive with respect to the particular lands to be relinquished by it, but it shall not be bound to relinquish lands sold or contracted by it or lands which it uses or needs for railroad purposes, or lands valuable for stone, iron, or coal: *And provided further,* That whenever any qualified settler shall in good faith make settlement in pursuance of existing law upon any odd-numbered sections of unsurveyed public lands within the said railroad grant to which the right of such railroad grantee or its successor in interest has attached, then upon proof thereof satisfactory to the Secretary of the Interior, and a due relinquishment of the prior railroad right, other lands may be selected in lieu thereof by said railroad grantee or its successor in interest, as hereinbefore provided, and patents shall issue therefor: *And provided further,* That nothing herein contained shall be construed as intended or having the effect to recognize the Northern Pacific Railway Company as the lawful successor of the Northern Pacific Railroad Company in the ownership of the lands granted by the United States to the Northern Pacific Railroad Company, under and by virtue of foreclosure proceedings against said Northern Pacific Railroad Company in the courts of the United States, but the legal question whether the said Northern Pacific Railway Company is such lawful successor of the said Northern Pacific Railroad Company, should the question be raised, shall be determined wholly without reference to the provisions of this act, and nothing in this act shall be construed as enlarging the quantity of land which the said Northern Pacific Railroad Company is entitled to under the laws heretofore enacted: *And provided further,* That all qualified settlers, their heirs or assigns, who prior to January first, eighteen hundred and ninety eight, purchased or settled upon or claimed in good faith, under color of title or claim of right under any law of the United States or any ruling of the Interior Department, any part of an odd-numbered section in either the granted or indemnity limits of the land grant to the Northern Pacific Railroad Company to which the right of such grantee or its lawful successor is claimed to have attached by definite location or selection, may in lieu thereof transfer their claims to an equal quantity of public lands surveyed or unsurveyed, not mineral or reserved, and not valuable for stone, iron, or coal, and free from valid adverse claim, or not occupied by a settler at the time of such entry, situated in any State or Territory into which such railroad grant extends, and make proof therefor as in other cases provided; and in making such proof, credit shall be given for the period of their bona fide residence and amount of their improvements upon their respective claims in the said granted or indemnity limits of the land grant to the said Northern Pacific Railroad Company the same as if made upon the tract to which the transfer is made; and before the Secretary of

the Interior shall cause to be prepared and delivered to said railroad grantee or its successor in interest any list or lists of the several tracts which have been purchased or settled upon or occupied as hereinbefore provided, he shall notify the purchaser, settler, or claimant, his heirs or assigns, claiming against said railroad company, of his right to transfer his entry or claim, as herein provided, and shall give him or them option to take lieu lands for those claimed by him or them or hold his claim and allow the said railroad company to do so under the terms of this act.

Special regulations were approved under this act February 14, 1899, and June 3, 1899. (See 28 L. D., 103 and 470.)

FORFEITED RAILROAD LANDS.

Attention is called to the provisions of an act of Congress entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes," approved September 29, 1890. (26 Stat. L., 496; Appendix No. 40, p. 215.)

The *first* section provides for the forfeiture of all lands heretofore granted to any State or to any corporation to aid in the construction of a railroad opposite to and coterminous with the portion of any such railroad not now constructed and in operation, and declares the lands forfeited to be a part of the public domain, excepting, however, from the forfeiture the right of way and station grounds heretofore granted.

The *second* section provides that *all* persons who, at the date of the passage of this act, are actual settlers in good faith on any of the lands forfeited, and are otherwise qualified, on making due claim on said lands under the homestead law within six months after the passage of this act, shall be entitled to a preference right to enter the same under the provisions of the homestead law and this act, and shall be regarded as actual settlers from the date of actual settlement or occupation.

It is clear that this clause of the section allows the actual settler, if qualified, to make a homestead entry of the tract upon which he had made settlement, and this as a preference right to be exercised within six months after the passage of the act.

It is further provided by said section that any person who has not heretofore had the benefit of the homestead or preemption law, or who has failed from any cause to perfect the title to a tract of land heretofore entered by him under either of said laws, may make a second homestead entry under the provisions of this act.

The language of this clause of the section authorizing "a second homestead entry" refers only to those persons who have heretofore made a homestead entry, but failed from any cause to perfect the same.

In other words, the object of this clause is to allow anyone qualified who had not theretofore secured a piece of land under the homestead law to obtain a tract of these forfeited lands under that law.

Applicants under the homestead laws will be required to make oath that they have not heretofore secured a piece of land under the homestead law, and if an entry has been made under said law that was not for any reason perfected the facts in relation thereto should be fully set forth.

The *third* section provides that in all cases where persons, being citizens of the United States, or who have declared their intentions to become such, in accordance with the naturalization laws of the United States, are in possession of any of the lands affected by any such grant, and hereby resumed by and restored to the United States, under deed, written contract with, or license from the State or corporation to which such grant was made, or its assignees, executed prior to January first, eighteen hundred and eighty-eight, or where persons may have settled

said lands with bona fide intent to secure title thereto by purchase from the State or corporation, when earned by compliance with the conditions or requirements of the granting acts of Congress, they shall be entitled to purchase the same from the United States, in quantities not exceeding three hundred and twenty acres to any one such person, at the rate of one dollar and twenty-five cents per acre, at any time within two years from the passage of this act, and on making said payment to receive patents therefor; and where any such person in actual possession of any such lands, and having improved the same, prior to the first day of January, eighteen hundred and ninety, under deed, written contract, or license as aforesaid, or his assignor, has made partial or full payments to said railroad company prior to said date, on account of the purchase price of said lands from it, on proof of the amount of such payments he shall be entitled to have the same, to the extent and amount of one dollar and twenty-five cents per acre, if so much has been paid, and not more, credited to him on account of and as part of the purchase price herein provided to be paid the United States for said lands, or such persons may elect to abandon their purchases and make claim on said lands under the homestead law, and as provided in the preceding section of this act.

Where parties, persons, and corporations, with the permission of such States or corporations, or their assigns, are in possession of and have made improvements upon any of the lands resumed and restored, and are not entitled to enter the same under the provisions of this act, such parties, persons, or corporations shall have six months in which to remove any growing crops, buildings, and other movable improvements from said lands.

By an amendment to the third section by act of January 23, 1896 (29 Stat., 4), there was added thereto the following:

Provided, That actual residence upon the lands by persons claiming the right to purchase the same shall not be required where such lands have been fenced, cultivated, or otherwise improved by such claimants, and such persons shall be permitted to purchase two or more tracts of such lands by legal subdivisions, whether contiguous or not, but not exceeding three hundred and twenty acres in the aggregate.

It is provided that the right of purchase granted by this section shall not apply to any lands situated in the State of Iowa on which any person in good faith has made or asserted the right to make a preemption or homestead settlement.

All the roads situated within said State have been constructed, except the portion of the Sioux City and St. Paul Railroad between Le Mars and Sioux City.

The grant for this company was made the subject of departmental decision of July 26, 1887 (6 L. D., 47), and a portion of the lands south of Le Mars was by said decision directed to be restored, but as far as the same are opposite unconstructed road they will come under the provisions of this act.

An applicant for purchase, under this section, of lands in Iowa will therefore be required to show that no person has in good faith asserted the right to make a preemption or homestead settlement upon the land sought to be purchased.

Further provision is made that nothing in this act shall be construed as limiting the rights granted to purchasers or settlers by the act of March 3, 1887, providing for the adjustment of land grants made by Congress to aid in the construction of railroads, nor as in any manner affecting any cause of action existing in favor of any purchaser against his grantor for breach of any covenants of title.

The *fourth* section merely repeals certain sections in acts making grants to aid in the construction of certain railroads in so far as said sections require the Secretary of the Interior to reserve lands within the indemnity limits of such grants. This section did not restore the indemnity lands, but removed any obstacle to the restoration by the Department, and the restorations were duly made.

The *fifth* section provides that if it shall be found that any lands heretofore granted to the Northern Pacific Railroad Company, and so resumed by the United States and restored to the public domain, lie north of the line known as the "Harrison line," being a line drawn from Wallula, Washington, easterly to the southeast corner of the northeast one-fourth of the southeast quarter of section twenty-seven, in township seven north, of range thirty-seven east, of the Willamette meridian, all persons who had acquired in good faith the title of the Northern Pacific Railroad Company to any portion of said lands prior to July first, eighteen hundred and eighty-five, or who at said date were in possession of any portion of said lands or had improved the same, claiming the same under written contract with said company, executed in good faith, or their heirs or assigns, as the case may be, shall be entitled to purchase the lands so acquired, possessed, or improved, from the United States, at any time prior to the expiration of one year after it shall be finally determined that such lands are restored to the public domain by the provisions of this act, at the rate of two dollars and fifty cents per acre, and to receive patents therefor upon proof before the proper land office of the fact of such acquisition, possession, or improvement, and payment therefor, without limitation as to quantity. The time allowed to make purchase under this provision has expired.

This section also confirmed to the city of Portland, in the State of Oregon, the right of way and riparian rights theretofore attempted to be conveyed to that city by the Northern Pacific Railroad Company to a strip of land fifty feet in width through certain described sections.

The *sixth* section provides that no lands forfeited by this act shall inure to the benefit of any State or corporation to which lands may have been granted by Congress, except as provided by this act, nor shall the act be construed to enlarge the area of land originally covered by any such grant, or to confer any right upon any State, corporation, or persons to lands which were excepted from such grant.

Provision is also made against the moiety in conflicting limits of grants for a main and branch line, appertaining to unconstructed road and forfeited by this act, inuring to the benefit of the completed line.

Section *seven* relates specially to the grant to the State of Mississippi to aid in the construction of the road known as the Gulf and Ship Island Railroad, and upon the condition that said company, within ninety days from the passage of this act, shall accept the provisions of this act and file with the Secretary of the Interior a valid relinquishment of all said company's interest, right, title, and claim in and to all such lands as have been sold by the officers of the United States for cash, or with the allowance or approval of such officers have been entered in good faith under the preemption or homestead laws, or upon which there were bona fide preemption or homestead claims on the first day of January, eighteen hundred and ninety, arising or asserted by actual occupation of the land under color of the laws of the United States, then the forfeiture declared in the first section shall not, until one year after the passage of this act, apply to or in anywise affect so much and such parts of said grant as lie south of a line drawn east and west through

the point where the Gulf and Ship Island Railroad may cross the New Orleans and Northeastern Railroad in said State.

Other lands, in lieu of those relinquished south of said point, may be selected within the indemnity limits of the original grant, nearest to and opposite such part of the line as may be constructed at the date of selection.

Section *eight* provides that the Mobile and Girard Railroad Company, of Alabama, shall be entitled to the quantity of land earned by the construction of its road from Girard to Troy, a distance of eighty-four miles. And the Secretary of the Interior in making settlement and certifying to or for the benefit of the said company the lands earned thereby shall include therein all the lands sold, conveyed, or otherwise disposed of by said company not to exceed the total amount earned by said company as aforesaid. And the title of the purchasers to all such lands are hereby confirmed so far as the United States are concerned.

But such settlement and certification shall not include any lands upon which there were bona fide preemptors or homestead claims on the first day of January, eighteen hundred and ninety, arising or asserted by actual occupation of the land under color of the laws of the United States.

The right hereby given to the said railroad company is on condition that it shall within ninety days from the passage of this act, by resolution of its board of directors, duly accept the provisions of the same and file with the Secretary of the Interior a valid relinquishment of all said company's interest, right, title, and claim in and to all such lands within the limits of its grant as have heretofore been sold by the officers of the United States for cash, where the Government still retains the purchase money, or with the allowance or approval of such officers have been entered in good faith under the preemption or homestead laws, or as are claimed under the homestead or preemption laws as aforesaid, and the right and title of the persons holding or claiming any such lands under such sales or entries are hereby confirmed, and all such claims under the preemption or homestead laws may be perfected as provided by law. Said company to have the right to select other lands as near as practicable to constructed road and within indemnity limits in lieu of the lands so relinquished. And the title of the United States is hereby relinquished in favor of all persons holding under any sales by the local land officers of the lands in the granted limits of the Alabama and Florida Railroad grant, where the United States still retains the purchase money, but without liability on the part of the United States.

The grant for the Mobile and Girard Company was finally adjusted April 24, 1893, the lands to which the company was entitled being recertified and the balance restored to entry.

The roads affected by said act are as follows:

Wisconsin Central Railroad, between Ashland and Superior City, in the State of Wisconsin.

Northern Pacific Railroad, between Wallula, Wash., and Portland, Oreg. Lands restored are in Washington and Oregon.

Tennessee and Coosa Railroad, entire grant, extending from Gunters Landing to Gadsden, State of Alabama.

Coosa and Chattooga Railroad, entire grant, extending from Gadsden, through Chattooga Valley, to Georgia State line.

Selma, Rome and Dalton Railroad, from Jacksonville to Gadsden, State of Alabama.

Amboy, Lansing and Traverse Bay Railroad, from Jonesville to Amboy, in State of Michigan.

Sioux City and St. Paul Railroad from Le Mars to Sioux City, in State of Iowa.

Mobile and Girard Railroad, from Troy to Mobile, State of Alabama.

Gulf and Ship Island Railroad, from Brandon, State of Mississippi, to a point 20 miles north of the Gulf of Mexico.

South Pacific Railroad (main line) from Alcalde to Tres Pinos.

St. Paul and Sioux City Railroad, from St. Anthony, via Minneapolis, to Shakopee.

Southern Minnesota Railroad, from Houston to Rochester.

In some cases no actual restoration of the lands affected by the act has yet been ordered, for the reason that questions are pending, a determination of which may affect the amount to be restored.

By the act of Congress approved February 18, 1891 (26 Stat. L., 764), the above act was amended so that the period within which settlers, purchasers, and others under the provisions of said act may make application to purchase lands forfeited thereby or to make homestead entries as therein authorized, shall begin to run from the date of the promulgation by the Commissioner of the General Land Office of the instructions to the local officers for their direction in the disposition of the lands, and not from the date of the passage of said act.

By act of December 12, 1893 (28 Stat. L., 15; Appendix No. 48, p. 230), the time allowed for purchase by claimants under section 3 of this act was extended to January 1, 1897, saving, however, any adverse claims that may have attached.

The time was further extended to January 1, 1899, by act of February 18, 1897 (29 Stat., 535; Appendix No., 74 p. 246), with the same provision for saving adverse claims.

By departmental regulation of March 31, 1891 (12 L. D., 308), it is required that notice of intention to assert the right of purchase accorded under section 3, act of September 29, 1890, must be filed in the local office by persons claiming such right within sixty days after due publication by said office of such regulation. The registers and receivers of the local offices have made the publication contemplated.

Under different dates all withdrawals heretofore ordered of lands within the indemnity limits of the several grants made by Congress to aid in the construction of railroads have been revoked, and the lands not embraced in pending or approved selections have been restored.

As to lands covered by unapproved selections, applications to make filings and entries thereon may be received, noted, and held subject to the claim of the company, of which claim the applicant must be distinctly informed and memoranda thereof entered upon his papers.

Whenever such application to file or enter is presented, alleging upon sufficient prima facie showing that the land is not from any cause subject to the company's right of selection, notice thereof will be given to the proper representative of the company, which will be allowed thirty days after service of said notice within which to present objections to the allowance of said filing or entry.

Should the company fail to respond or show cause before the district land officers why the application should not be allowed, said application for filing or entry will be admitted, and the selection held for cancellation; but should the company appear and show cause an investigation will be ordered under the rules of practice to determine whether said land is subject to the right of the company to make selection of the

same, which will be determined by the register and receiver, subject to the right of appeal in either party.

When appeals are taken from the decision of the register and receiver to this office in the class of cases above provided for they will be disposed of without delay, and if the decision should be in favor of the company and no appeal be taken the land will be certified to the Secretary of the Interior for approval for patent without requiring further action on the part of the company except the payment of the required fees. If the decision should be adverse to the company and no appeal be taken, the selection will be canceled and the filing or entry allowed, subject to compliance with law.

Lands which have not been selected are subject to settlement and entry as other public lands, and notice to the company will not be required.

DISPOSAL OF ABANDONED MILITARY RESERVATIONS.

Formerly military reservations which were no longer needed for military purposes were transferred to the Interior Department by the War Department only under special acts which provided for the transfer and disposal of the particular reservations named in the several acts.

By the act of August 18, 1856 (11 Stat. L., 87), provision was made for the disposal of the abandoned military reservations in the State of Florida. The act of July 5, 1884 (23 Stat. L., 103), repealed the said act of August 18, 1856, and made provisions for the transfer and disposal of abandoned military reservations generally. The provisions of said act of July 5, 1884, permit the appraisal and public sale of such land after sixty days' public notice of the time, place, and terms of sale. The lands are required to be sold for cash to the highest bidder at not less than the appraised value nor less than $1.25 per acre. If the lands are not sold at the first offering they may be reoffered at any subsequent time in the same manner, after which they may be sold for cash at private sale at not less than the appraised value nor less than $1.25 per acre.

The improvements belonging to the Government on such lands may, after appraisal, be sold with the tracts upon which they are situated, or they may be sold separately at public sale to the highest bidder for cash, at not less than the appraised value, to be removed by the purchaser within such time as may be prescribed.

Where the improvements were sold by the Government prior to the passage of the act of July 5, 1884, the purchaser thereof has the preference right for sixty days to purchase, at the appraised value, the land containing such improvements, not exceeding the smallest subdivision or lot provided for by the act.

It is further provided that any of such lands containing valuable mineral deposits shall be disposed of exclusively under the mineral-land laws.

Provision is also made that any settler, who was in actual occupation of any portion of any such reservation prior to the location of such reservation, or who settled thereon prior to January 1, 1884, in good faith for the purpose of securing a home and of entering the same under the general laws, and continued in such occupation to the date of the act, if entitled by law to make a homestead entry, may enter the land so occupied, not exceeding 160 acres in a body, according to the Government surveys and subdivisions, provided that said lands were subject to entry under the public-land laws at the time of their withdrawal.

The act of August 23, 1894 (28 Stat. L., 491; Appendix No. 57, p. 235), made further provision for the disposal of abandoned military reservations, and the scope of said act was extended by the amendatory act of February 15, 1895 (28 Stat L., 664; Appendix No. 62, p. 238).

The first section of the former act opens to settlement under the public-land laws of the United States all lands not already disposed of in any abandoned military reservation theretofore placed under the control of the Secretary of the Interior for disposal under the act of July 5, 1884, the disposal of which has not been provided for by subsequent act of Congress, where the area exceeds 5,000 acres; such legal subdivisions as have Government improvements thereon, and such other parts as are now or may be hereafter reserved for some public use, being excepted. It also gives a preference right of entry for a period of six months from the date of the act to bona fide settlers who are qualified to enter under the homestead law and have made improvements, and were at date of said act residing upon any agricultural lands in such reservations, and also for a period of six months from the date of settlement when that shall occur after the date of this act. It also provides that persons who make homestead entries for such lands shall pay not less than the value heretofore or hereafter determined by appraisement, nor less than the price of the land at the time of entry, and that such payment may be made, at the option of the purchaser, in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior.

The second section refers to lands thereafter to be placed under the control of the Secretary of the Interior, and provides for the manner of appraisements.

Under the terms of this act settlement may be made on any of these reservations to which the terms of the first section apply, whether surveyed or not, where the area exceeds 5,000 acres. Where the lands in such reservations have been surveyed and the triplicate plats filed in the district land office, the register and receiver will allow homestead entries to go to record therefor, if the entrymen are duly qualified to make entry, as in the case of other surveyed public lands. But where entry is made under this act, the entryman will be required to pay for the lands at the value heretofore or hereafter determined by appraisement, and the payments may be made, at the option of the purchaser, in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior.

Appraisements of such lands will be ordered by the Secretary of the Interior at such times as the public interests demand, and to the extent permissible under the appropriations made or to be made by Congress for this purpose.

In some instances instructions have been issued to the district land officers to allow homestead entries, under the act of July 5, 1884, where the lands have been surveyed, in abandoned military reservations the area of which exceeds 5,000 acres. Such of these lands as have not been entered under said act of July 5, 1884, are now subject to the provisions of the act of August 23, 1894, but this latter act does not apply to any abandoned military reservations whose area is 5,000 acres or less; and settlement, except as provided by said act of July 5, 1884, on any such reservations will not confer any rights upon the settlers.

It will be observed that this act grants a preference right of entry for a period of six months from its date to all bona fide settlers who are qualified to enter under the homestead law and have made improvements and are now residing upon any agricultural lands in said reser-

vations, and also for a period of six months from the date of settlement when that shall occur after the date of this act. Where the lands have been surveyed, there will be no difficulty in the operations of this provision of law, but in cases in which the lands have not been surveyed the equitable construction of this act seems to be that the preference right of entry shall extend to a period of six months from the date of the filing of the triplicate plats of surveys in the district land office.

Definite instructions as to the price of the land, the dates of payments, and the rates of interest to be paid thereon will be issued in relation to each reservation when the appraisement thereof shall have been made and approved.

The amendatory act extends the provisions of the act of August 23, 1894, "to all abandoned military reservations which were placed under the control of the Secretary of the Interior under any law in force prior to the act of July 5, 1884," and provides that the preference right of entry given to actual settlers by the act amended shall, as to the lands to which the provisions of said act are extended, take effect and continue for six months from the date of the amendatory act.

SALINE LANDS RESERVED UNDER GENERAL LAWS.

Congress passed an act January 12, 1877 (19 Stat. L., 221; Appendix No. 3, p. 163), for the sale of saline or salt-spring lands in certain States. This act has exclusive reference to that class of lands which at an early period were segregated from the public lands on account of salt springs and reserved from disposal under general laws, and which, therefore, to use the language of the statute, were "incapable of being purchased under any of the laws of the United States relative to the public domain." (See decision of the Supreme Court of the United States in the case of Morton *v.* Nebraska, 21 Wallace, 660.) These lands never were subject to the operation of the homestead and preemption laws, nor of any other law for the disposal of the public lands, except the act of January 12, 1877, above referred to. (See Public Domain, p. 217.) That act provides for the disposal of such lands in a certain contingency at private sale, and, being special in character and of particular application, is not repealed or modified by the general provisions of the act of March 2, 1889, "to withdraw certain public lands from private entry" (25 Stat. L., 854; Appendix No. 32, p. 187; second paragraph circular of March 8, 1889, 8 L. D., 314).

DETERMINATION OF THE CHARACTER OF THE LANDS.

Should prima facie evidence that certain tracts are saline in character be filed with the register and receiver of the proper land district, they will designate a time for a hearing at their office and give notice to all parties in interest, in order that they may have ample opportunity to be present with their witnesses. Such witnesses will be examined in regard to the saline character of the given tracts and whether the same are claimed by any person; if so, the names of the claimants and the extent of their improvements must be shown.

The witnesses should be thoroughly examined as to the true character of the land in other respects—its agricultural capacities; what kind of crops, if any, have been raised thereon or can be raised from land of such character; whether it contains any valuable deposit of mineral of any kind or of coal. In short, the testimony should be as complete as possible, and in addition to the points indicated above everything of

importance bearing upon the character of the land should be elicited at the hearing.

The testimony taken at the hearing will be transmitted to the General Land Office by the register and receiver, with their opinion thereon. When the case comes before the General Land Office such a decision will be rendered in regard to the character of the land as the facts may warrant

DISPOSAL OF SALINE LANDS.

Should the tracts be adjudged *saline* lands, the register and receiver will be instructed to offer the same for sale, after public notice, at the local land office of the district in which the same shall be situated and to sell said tract or tracts to the highest bidder for cash at a price not less than $1.25 per acre.

In case said lands should not be sold when so offered, they will be subject to private sale for cash at a price not less than $1.25 per acre in the same manner as other public lands are sold at private sale.

Should the tract in question be adjudged agricultural or mineral, it will be subject to disposal as such.

The provisions of this act do not apply to any lands within the Territories, nor to any within the States of Mississippi, Louisiana, Florida, California, or Nevada, none of which has had a grant of salines by act of Congress; nor do they apply to the States of Idaho, North Dakota, South Dakota, Montana, Washington, or Wyoming, none of which has had an express grant of saline lands, although each has had a grant declared to be in lieu of saline and other special grants.

GENERAL RULES APPLICABLE TO DIFFERENT CLASSES OF ENTRIES.

1. Applicants to make entries and claimants and witnesses making final proof must in all cases state their place of actual residence, their business or occupation, and their post-office address. It is not sufficient to name the county and State or Territory where a party lives, but the town or city must be named, and, if residence is in a city, the street and number must be given. The register and receiver will note the post-office address in their tract book.

2. Where the residence of a party or witness is on surveyed land the subdivision, section, township, and range must be stated in every case.

3. Notice by registered letter, directed to claimant's last-known post-office address, is the prescribed means of giving legal notice to him of official action taken in respect to his entry, either before or after proof (circular approved October 28, 1886, 5 L. D., 204). Claimants and entrymen should therefore give prompt notice to the register and receiver of any change of residence or post-office address. (See Rules of Practice 11, 14, and 17, as amended May 26, 1898.)

PUBLICATION OF NOTICE OF FINAL PROOF.

4. Any claimant desiring to make final proof of having complied with the provisions of law in respect to residence, cultivation, or improvement must first file with the register of the proper land office a written notice of his intention to do so, which notice must be transmitted by the register and receiver to this office, with the proof. The notice must describe the land claimed, and the claimant must give the names and

residences of the witnesses by whom the necessary facts as to settlement, residence, cultivation, etc., are to be established. He must also state the day when, the place where, and the officer before whom the proof is to be taken.

5. The filing of notice of intention to make proof must be accompanied by a deposit of sufficient money to pay the cost of publishing the notice to be given by the register, the deposit to be made with the receiver, who will notify the register thereof, that he may cause the notice to be published, but settlers are not to be deprived of the right to make their own contracts for publishing notices of intention to make final proof and to make payment therefor directly to the publishers of the paper, after the notice has been prepared by the register and the paper designated by him, on presenting to the register a statement from the publisher or his agent that the money for the payment of said notice has been paid to or deposited with said publisher.

6. Upon the filing of the notice by the applicant the register will publish a notice that such application has been made, once each week for a period of thirty days, in a newspaper which he shall designate by an order written on said application, as published nearest the land described in the application, and he shall also post said notice in some conspicuous place in his office for the same period. If published in a weekly paper a compliance with the law will require the notice to be published weekly five successive weeks, the day fixed for the submission of the final proof to be at least thirty days after the first publication.

7. The notice to be given by the register must state that application to make final proof has been filed; the name of the applicant; the kind of entry, whether homestead, preemption, or other; a description of the land and the names and residences of the witnesses as stated in the application; also the day when, the place where, and the officer before whom the proof is to be taken. (See Form 4–347, p. 277.)

8. To save expense, the register may embrace two or more cases in one publication, when it can be done consistently with the legal requirements of publication in a newspaper published nearest the land, as per Form 4–347, p. 277.

9. Publishers should cause each proof notice to be carefully compared by copy, and should send at least one copy of the paper containing the notice to the party in interest. This course will avoid errors or secure their correction in proper time.

10. Proof of publication will be the affidavit of the publisher or foreman of the newspaper employed that the notice (a copy of which notice must be annexed to the affidavit) was published in said newspaper once a week (if a weekly paper) for five successive weeks, or for thirty days in a daily paper, as the case may be. Such affidavit must show that the notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the notice was published in the newspaper proper and not in a supplement. Affidavits of publication not in conformity with these requirements will be rejected by the register and receiver.

11. Proof of posting notice in the district land office will be the certificate of the register that the notice of the application (a copy of which should be annexed to the certificate) was posted by him in a conspicuous place in his office for a period of thirty days. (Form 4–227, p. 277.)

12. The proof of the publication and posting of the notice must be filed and preserved by the register, to be forwarded to the General Land Office with the final papers when issued.

13. Proof should in every case be made at the time and place advertised, and before the officer named in the notice. On the day advertised the officer named in the notice shall call the case for hearing, and should the claimant fail to appear the officer should continue the case until the next day, and on that day or on any succeeding day, should the claimant fail to appear, proceed in like manner until the expiration of ten days from the day advertised, after which the proof, if presented, should not be received. Proper notice should be given of the continuances, made in the most effective way the circumstances admit of, to any parties interested. Parties proposing to cross-examine claimant's witnesses or submit rebutting testimony will be allowed to do so on the day advertised, in case of the appearance of the claimant and his proof being made on that day. In case of his nonappearance protests or affidavits of contest may be filed, and if a sufficient ground of objection is set forth therein the protestant, adverse claimant, or contestant may appear at any subsequent day to which the case may be adjourned, with the same rights of cross-examination and of submitting rebutting testimony as if the appearance had been made on the day advertised, should he so elect, and if he should not do so, the register and receiver of the proper district land office will take measures to secure the protestant, contestant, or adverse claimant an opportunity to be heard, on the grounds of objection presented after due notice to all parties according to rules of practice before allowing final entry to be made; and the appearance of the protestant or adverse claimant, or filing of protest or contest affidavit, on the day advertised, or on any day to which the case may be continued as above, will suffice to protect their rights in the premises as fully as though both parties had appeared and the proof been taken on the day advertised. The proceedings had should be duly docketed and be made to appear by proper entries on the proof papers to which any protest or contest affidavit filed should be attached, by the officer named in the notice. The witnesses to the proofs must be two of the persons named as witnesses in the notices. Other persons can not be substituted as witnesses without readvertisement.

Section 7, act of March 2, 1889, legalizes proof taken within ten days following the date advertised, where unavoidable delay prevents compliance with the notice. (10 L. D., 301, 397.)

There is no law or rule of the Department that warrants the local officers in extending the time for taking final proof beyond ten days from the time set therefor in the advertisement. (20 L. D., 343.)

DUTIES OF ATTESTING OFFICERS.

14. When proof is made before the proper United States commissioner, judge, or clerk of court (as the case may be), the affidavits and testimony must be duly authenticated and transmitted to the register and receiver, together with the "fee and charges" allowed by law to them. There may be transmitted therewith the fees and commissions, if any, legally payable on the entry at the time of making final proof, and in addition thereto in homestead and timber-culture entries under acts of March 3, 1877 (19 Stat. L., 403; Appendix No. 5, p. 165), and March 3, 1891 (26 Stat. L., 1095; Appendix No. 44, p. 221), the legal fee for "examining and approving" the testimony, which is 15 cents, or in the Pacific States and Territories, 22½ cents, for each 100 written words. Printed words are not to be counted.

15. When the land is within an unorganized county, the fact that the county in which the land lies is unorganized and that the county in

which the proof is made is adjacent thereto must be certified by the attesting officer.

16. Attesting officers must sign in their true official capacity. If proof is taken by a judge in his capacity as clerk of his own court he should sign as "ex officio clerk."

17. Registers and receivers, judges and clerks of courts, and other officers taking proofs are enjoined to use the utmost strictness in the examination of parties and witnesses, and to obtain full, specific, and unevasive answers to all the questions propounded, and all necessary oral cross-examinations will be made by attesting officers to further attest the good faith of claimants and the reliability of the testimony of claimants and witnesses. Officers will certify to their oral cross-examinations.

18. Registers and receivers will carefully examine all proofs transmitted to them by other officers, and will not issue certificates nor place entries on record, nor transmit the proofs to this office until the same have been thus examined. Defective, insufficient, or unsatisfactory proofs will be rejected and new proof required.

19. Proofs taken by other officers than registers and receivers must be immediately transmitted to the register and receiver and the money paid to the latter. When any interval of time, other than that required for immediate and expeditious transmittal, elapses between the date of proof and date of its receipt, with the money, at the district land office, a new affidavit, duly corroborated, showing nonalienation and continued residence, covering date of receipt of proof and payment by the register and receiver, will be required before certificate is issued or the entry placed of record.

Proof without payment must in no case be accepted or received by registers and receivers. If, however, this should occur by inadvertence in any case, additional evidence as above should be at once required of the claimant before allowing entry.

All discrepancies between date of proof and date of register's certificate and receiver's receipt must be accounted for by certificate from the register and receiver attached to each case.

20. As settlers on unsurveyed lands are allowed three months after the filing of the township plat of survey within which to put their claims on record, no final proof on homestead or preemption entries should be permitted until after the expiration of said three months.

VACANCY IN OFFICE OF REGISTER OR RECEIVER.

21. By the act of Congress approved October 1, 1890 (26 Stat. L., 657), it is provided that in cases before any of the land offices of the United States in which a vacancy exists in either the office of register or receiver, "where the day set for hearing final proofs came during the vacancy in said office, and there is no contest or protest against said claim, and where the remaining officer has taken said proofs and reduced the same to writing, the same may be passed upon by the register and receiver as if the same had been taken when there was no vacancy;" also that "when a vacancy shall occur in any of the land offices of the United States by reason of the death, resignation, or removal of either the register or receiver, and the time set for taking final proofs falls within the vacancy thus caused, the remaining officer may proceed to take said final proofs, in the absence of any contest or protest, reduce the same to writing, and place it on file in the office, to be considered and passed upon when the vacancy is filled."

Upon the occurrence of a vacancy for any reason in the office of register or receiver at any of the district land offices, all business requiring the action of both officers must await the filling of the vacancy; and, while the office is kept open for the purpose of furnishing general information, no action can be taken upon applications to contest or enter lands in that district.

Applications to contest entries or to enter lands and all other applications requiring joint action of both officers which may be presented during the vacancy in the local office will be received, the time of presentation noted thereon, and upon the resumption of business such applications will be disposed of in their order.

NOTICE OF FILING PLATS.

22. Hereafter, when an approved plat of the survey of any township is transmitted to the register and receiver by the surveyor-general they will not regard such plat as officially received and filed in their office until the following regulations have been complied with:

(1) They will forthwith post a notice in a conspicuous place in their office, specifying the township that has been surveyed and stating that the plat of survey will be filed in their office on a day to be fixed by them and named in the notice, which shall not be less than thirty days from the date of such notice, and that on and after such day they will be prepared to receive applications for the entry of lands in such township.

(2) They will also send a copy of such notice to the postmasters of the post-offices nearest the land and a copy to each clerk of a court of record in their district, with request that the same be conspicuously posted in their respective offices.

(3) They will furnish the public press in their district with copies of such notice as a matter of news.

(4) They will give such further publicity of the matter in answer to inquiries (for which they will charge no fee) and otherwise as they may be able to do without incurring advertising expenses. (Circular of October 21, 1885, 4 L. D., 202.)

CITIZENSHIP AND NATURALIZATION.

23. Parties should in all cases of application to make entry and in final proof state distinctly whether they are native-born or naturalized citizens. If naturalized, evidence of naturalization should be filed with the original entry application. If not naturalized, evidence of declaration of intention should be filed at the time the first entry or application is made.

The certification of naturalization papers or other court records should be received only when made under the hand and seal of the clerk of the court in which such papers appear of record, but where a judicial record is shown to have existed and is now lost or destroyed proof of the same may be made by secondary evidence, in accordance with the rules of evidence governing such proof.

AFFIDAVIT AS TO NONMINERAL CHARACTER OF LAND.

24. In all entries of nonmineral lands in the States of Arkansas, California, Colorado, Florida, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and the Territories of Arizona and New Mexico, a nonmineral affidavit is required. (Form 4–062, p. 299.)

CONTIGUITY OF LANDS.

25. Entries of public lands, if surveyed, must be made by legal subdivisions according to the public surveys, and if different tracts are taken to make up the full quantity allowed or intended to be entered in preemption, homestead, timber-culture, and other classes of entries the tracts must be contiguous to each other, so as to form one body of land.

LANDS IN THE POSSESSION OF INDIAN OCCUPANTS.

26. No entries will be allowed upon lands in the possession, occupation, and use of Indian inhabitants, or covered by their homes and improvements; and registers and receivers are required to exercise every care and precaution to prevent the inadvertent allowance of any such entries. It is presumed that they know or can ascertain the localities of Indian possession and occupancy in their respective districts, and it is their duty to do so, and to avail themselves of all information furnished by officers of the Indian service. (Circular of October 26, 1887, 6 L. D., 341.)

RESTRICTION ON THE ACQUISITION OF TITLE TO AGRICULTURAL PUBLIC LAND.

Attention is called to the following portion of an act of Congress of August 30, 1890 (26 Stat. L., 391), making appropriations for the fiscal year ended June 30, 1891, viz:

For topographic surveys in various portions of the United States, three hundred and twenty-five thousand dollars, one-half of which sum shall be expended west of the one hundredth meridian; and so much of the act of October second, eighteen hundred and eighty-eight, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes," as provides for the withdrawal of the public lands from entry, occupation, and settlement, is hereby repealed, and all entries made or claims initiated in good faith and valid but for said act, shall be recognized and may be perfected in the same manner as if said law had not been enacted, except that reservoir sites heretofore located or selected shall remain segregated and reserved from entry or settlement as provided by said act, until otherwise provided by law, and reservoir sites hereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof.

No person who shall, after the passage of this act, enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry, or settlement is validated by this act: *Provided*, That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this act, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

See also seventeenth section, act of March 3, 1891. (26 Stat. L., 1095; Appendix No. 44, p. 221.)

It will be seen that the acquisition of title under the agricultural land laws by any person is restricted to 320 acres in the aggregate, with a qualification protecting rights of prior inception.

In view of this legislation, all applicants to file or enter under any of the land laws of the United States will be required to make affidavit showing that since August 30, 1890, they had not filed upon or entered under said laws a quantity of land which would make, with

the tracts applied for, more than 320 acres. Or, if the party should claim by virtue of the exception as to settlers prior to the act of August 30, 1890, the affidavit required should show the facts in reference to such settlement. (See Form 4–102b, p. 272; also circular of September 5, 1890, 11 L. D., p. 296.)

The maximum of 320 acres above limited is exclusive of any lands entered prior to the passage of said act of August 30, 1890, and exclusive of mineral lands entered prior or subsequent thereto (see Secretary's decision of December 29, 1890—12 L. D., 81, and seventeenth section of the act of March 3, 1891—26 Stat. L., 1095; Appendix No. 44, p. 221), and the prescribed affidavit may be modified accordingly, as it regards mineral lands.

CONFIRMATIONS BY THE SEVENTH SECTION OF THE ACT OF MARCH 3, 1891.

The seventh section of the act entitled "An act to repeal timber-culture laws, and for other purposes," approved March 3, 1891 (26 Stat. L., 1095), reads as follows, viz:

> That whenever it shall appear to the Commissioner of the General Land Office that a clerical error has been committed in the entry of the public lands such entry may be suspended upon proper notification to the claimant through the local land office until the error has been corrected; and all entries made under the preemption, homestead, desert-land, or timber-culture laws, in which final proof and payment may have been made and certificates issued, and to which there are no adverse claims originating prior to final entry and which have been sold or incumbered prior to the first day of March, eighteen hundred and eighty-eight, and after final entry to bona fide purchasers, or incumbrancers, for a valuable consideration, shall, unless upon an investigation by a Government agent, fraud on the part of the purchaser has been found, be confirmed and patented upon presentation of satisfactory proof to the land department of such sale or incumbrance: *Provided*, That after the lapse of two years from the date of the issuance of the receiver's receipt upon the final entry of any tract of land under the homestead, timber-culture, desert-land, or preemption laws, or under this act, and when there shall be no pending contest or protest against the validity of such entry, the entryman shall be entitled to a patent conveying the land by him entered, and the same shall be issued to him; but this proviso shall not be construed to require the delay of two years from the date of said entry before the issuing of a patent therefor.

Under this section, whenever a clerical error is discovered in any entry of the public lands which can not be accurately corrected by reference to the files, plats, and records of the General Land Office, such entry will be suspended upon notice to the claimant, and so remain until such error shall have been corrected.

The first class of entries confirmed by this section are those heretofore made, and with the additional conditions that there was a sale or incumbrance of the land prior to March 1, 1888, and after the issuance of final certificate to bona fide purchasers or incumbrancers, and that there is no adverse claim originating prior to final entry.

As to this class of entries it must be shown that no adverse claim exists that originated prior to final entry, and this will be usually determined by the records of the local and General Land Offices. The sale or incumbrance must be shown and all conveyances necessary to connect the present claimant of the land with the original entryman, by means of the original deeds, certified copies thereof, or a duly certified abstract of the proper records, together with satisfactory evidence that the incumbrance has not been discharged or that the land has not been reconveyed to the entryman. The bona fides of the sale or incumbrance must appear to the satisfaction of the officers of the Government.

The proviso to said section affects not only entries made prior to the passage of said act, but also those made and to be made subsequently thereto, and, as to this latter class, may be said to be a statute of limitations. All entries against which contests or protests by individuals were pending at the date of the passage of said act are held to have been excepted from the confirmatory provisions of this proviso, and such contests and protests will be considered and disposed of as if such section had not been passed. Where the period of two years from the date of the receiver's receipt expires after the passage of said act a contest or protest to be effective to prevent the confirmation of such entry must have been initiated within such period.

As to the effect of the proviso of this section upon proceedings instituted by the Government, it is sufficient for the purposes of this circular to say that such proceedings as have been or shall be begun within two years from the date of the receiver's receipt on final entry are not affected by said proviso, but will be continued to a final determination of the questions involved, and that such proceedings to be effective to take the entry attacked out of the operation of said proviso must have been begun within the said period.

It is not thought proper in this circular to enter into details or attempt to lay down rules to govern all questions that may arise in the administration of this section, and for such information reference may be had to the decisions of the Department.

AMENDMENTS OF APPLICATIONS AND ENTRIES.

Applications to amend filings or entries must be filed with the register and receiver, and by them transmitted for the consideration of the Commissioner of the General Land Office. Registers and receivers will not change an entry or filing so as to describe another tract, or change a date after the same has been recorded.

A party who alleges a mistake in the description of his filing or entry and desires to amend or change the same so as to describe another tract may do so in the manner herein prescribed.

He must file with the register and receiver a statement under oath, corroborated by at least two witnesses, or sustained by strong corroborating facts and circumstances, showing the nature of the alleged mistake and how the same occurred, and that every reasonable precaution and exertion had been made to avoid the error, and that he has not sold, assigned, transferred, or relinquished his alleged erroneous filing or entry, or his claim to the land described therein, nor agreed to do so.

He must show that the error did not result from want of a personal examination of the land by himself before making his filing or entry, and must state the date when he first examined the land he desired to enter and the date he commenced his settlement or improvements thereon, if any, and the character, extent, and value of any such improvements, and how he learned that the alleged error in description had been made.

The register and receiver must investigate the facts and transmit the evidence submitted to them in each case to the Commissioner of the General Land Office, together with their written opinion both as to the existence of the mistake and the credibility of each person testifying thereto and their recommendation in the matter. (8 L. D., 187.)

In case of an application for an entry being returned to the district land office for amendment, the register and receiver should write across the face thereof, "Amended to [here inserting the proper description]

as per Commissioner's letter of [here giving initial and date]." This notation must be signed by the entryman, after which the register and receiver will attest the same over their signatures and return the application to this office. (13 C. L. O., 205.)

RELINQUISHMENTS.

The first section of the act of May 14, 1880 (Appendix No. 15, p. 174), provides that when a preemption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

The register will note on each relinquishment, over his signature, the day and hour of its receipt, and will write the words "canceled by relinquishment" (giving date) opposite the record of the entry in the tract book, the register of entries, and the register of receipts, and will draw a line over the number of the entry on the township plat.

On Monday of each week the register and receiver are directed to transmit to this office all the relinquishments accepted by them the preceding week, classifying the same in their letter of transmittal by class of entry so transmitted.

Relinquishments run to the United States alone, and no person obtains any right to the land by the mere purchase of a relinquishment of a filing or entry.

Entries and filings made for the purpose of holding the land for speculation and the sale of relinquishments are illegal and fraudulent, and every effort in the power of the Government will be exerted to prevent such frauds and to detect and punish the perpetrators.

Purchasers of relinquishments of fraudulent filings or entries should understand that they purchase at their own risk so far as the United States is concerned, and must seek their own remedies under local laws against those who, by imposing such relinquishments upon them, have obtained their money without valuable consideration.

CONTESTS.

Any person may contest an entry, location, or selection made under any law of the United States, for any sufficient cause affecting the legality or validity of the same.

Applications to contest must be filed with the register and receiver.

An affidavit is required in each case, setting forth the facts which constitute the grounds of contest. This affidavit should be corroborated by the affidavits of one or more witnesses in cases where an entry has been allowed and remains of record. Contest affidavits may be made before any officer authorized to administer oaths.

A person who contests and secures the cancellation of any entry of record has a preference right for thirty days from receipt of notice of such cancellation in which to enter the land formerly covered by the contested entry, and during such period of thirty days the said land will be reserved from entry by any other person, though applications to enter made by other persons must, if presented, be received and held to await the expiration of the successful contestant's preference right, after which such intervening applications will be acted upon in the order in which they have been received.

Where an entry exists that is prima facie valid and an appropriation of the land, no application to enter will be received for another entry of the land until the existing entry is vacated by regular proceedings, except in cases of contests under the third section of the timber-culture act of June 14, 1878.

No application will be received, or any rights recognized as initiated by the tender of an application for a tract embraced in an entry of record until said entry has been canceled upon the records of the local office. Thereafter, and until the period accorded a successful contestant has expired, or he has waived his preferred right, applications may be received, entered, and held subject to the rights of the contestant, the same to be disposed of in the order of filing upon the expiration of the period accorded the successful contestant or upon the filing of his waiver of his preferred right.

If a contest is brought against the heirs of a deceased entryman, the affidavit of contest must state the names of all known heirs, and the notice of hearing must be served on each heir. If the person to be served is an infant under 14 years of age, or is of unsound mind, service of notice shall be made by delivering a copy of the notice to the statutory guardian or committee of such infant or person of unsound mind, if there be one, and if there be none, then to the person having such infant or person of unsound mind in charge. (19 L. D., 45.)

It is provided by the amendatory act of Congress approved July 26, 1892 (27 Stat. L., 270; Appendix No. 45, p. 228), that should any person who has initiated a contest die before the final termination of the same, said contest shall not abate by reason thereof, but his heirs who are citizens of the United States may continue the prosecution of such contest and be entitled to the same rights that contestant would have been if his death had not occurred. In any case, when the death of the contestant is suggested upon the record, his heirs who are citizens of the United States will in all subsequent proceedings be treated as parties to the case, provided the death of contestant occurred subsequent to the passage of said act of July 26, 1892.

It is held by the Supreme Court of the United States (Bernier *v.* Bernier, 147 U. S., 242) that upon the death of a homesteader who leaves no widow, but both adult and minor heirs, all rights under the entry pass to *all* the heirs equally and not to the minor heirs exclusively, as formerly held by the Department. In case of a contest under such circumstances, therefore, *all* the heirs must be served with notice of such contest.

Where leave of absence is granted to a homestead entryman, contest for abandonment can not be brought until six months from the expiration of such leave have elapsed, unless fraud in procuring the leave of absence is charged. (Hiltner *v.* Wortler, 18 L. D., 331.)

No homestead, timber-culture, desert land, or preemption entry can be contested after the lapse of two years from the date when final certificate has issued thereon. (Sec. 7 of act March 3, 1891, 26 Stat. L., 1095.)

When a contest has been closed before the local land officers and their report forwarded to the General Land Office, no additional evidence will be admitted in the case, unless offered under stipulation of the parties to the record, except where such evidence is presented as the basis of a motion for a new trial or in support of a mineral application or protest (rule 72 of Rules of Practice), and neither arguments, motions, letters containing ex parte statements relative to the case, nor even *appeals* can be considered unless they bear evidence of having been duly served upon the adverse party or parties in interest.

When, pending a contest, a relinquishment of his entry is filed by the defendant, the register and receiver should accept the relinquishment as the result of the contest and, canceling the entry thereupon, give proper notice to the contestant, and proceed, as regards the disposing of the land, as indicated in the above, according to the nature of the case, whether brought under the third section, act of June 14, 1878, with application to enter, or otherwise; but inquiry may be properly entertained on the allegation that the relinquishment was in fact an independent transaction and not the result of the contest, independent of the time when the relinquishment is filed, being before or after the hearing.

Contests of homestead entries on ground of abandonment can not be brought until after the expiration of six months from date of entry.

Contests of timber-culture entries on ground of noncompliance with law can not be brought until after the expiration of the year in which it is alleged the failure occurred.

Contests of desert-land entries on the ground of failure to irrigate and reclaim the land can not be brought against entries made since March 3, 1891, until after four years from date of entry, but as against entries made prior to said time contests may be brought for such default after the expiration of three years from date of entry. But if in said last-mentioned case the contest is brought before the expiration of four years, it shall be a defense if the entry man shows that prior to the initiation of contest he had taken steps toward perfecting the entry under the amendatory act of March 3, 1891.

In reference to desert-land entries made prior to August 4, 1894, the time for making final proof is extended to five years from date of entry by acts of July 26, 1894, and August 4, 1894, and the rule above stated with regard to the time after which contests may be brought, for failure to irrigate and reclaim the land, must be understood with the modification that contests can not be brought against entries to which said acts apply until after the expiration of the time as thereby extended.

The period covered by a departmental order suspending a desert-land entry must be excluded in computing the time within which reclamation must be effected, and final proof made.

Contests of homestead, timber-culture, and desert-land entries for other causes than abandonment or failure to comply with the law can be brought at any time after entry and before patent, without reference to the time allowed for compliance with law, provided final certificate has not been issued two years prior to contest.

Contests against entries for causes affecting the legality or validity of the same, or against locations or selections of any character, can be brought at any time after the entry, location, or selection has been made, and before patent has issued.

On a contest being brought, the officers will set apart a day for hearing, giving all parties in interest due notice of the time and place of trial.

In cases of inability to make personal service of the notice, and when it becomes necessary to serve it by publication, the act of Congress of June 3, 1878 (20 Stat. L., 91), directs that the same shall "be printed in some newspaper printed in the county where the land in contest lies, and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land."

The proceedings in such cases are governed by the rules of practice approved January 27, 1899, which are given in a separate circular.

SOLDIERS IN THE WAR OF 1898.

Under the act approved June 16, 1898 (see Appendix No. 79, p. 256), no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits that the settler's alleged absence from the land was not due to his employment in the military or naval service of the United States in time of war, and all affidavits of contest hereafter filed in which abandonment is alleged must conform to the requirements of this act.

SPECULATIVE AND COLLUSIVE CONTESTS.

No preference right of entry can be acquired through a contest which is shown by the evidence not to have been prosecuted in good faith. (Dayton *v.* Dayton, 6 L. D., 164.)

According to the well-settled interpretation of the homestead law in this Department, residence upon a homestead is not required as a prerequisite to a patent, beyond the period of five years, and it is held that after a patent has been *earned* by five years' actual residence and improvement, a homestead entry can not be successfully contested because of a change of residence therefrom within the statutory period for the submission of final proof. (Lawrence *v.* Phillips, 6 L. D., 140; Davis *v.* Fairbanks, 9 L. D., 530.)

The period within which final homestead proof may be submitted was extended to eight years from date of entry by the act of July 26, 1894 (28 Stat. L., 123), as to all entries then existing.

DISQUALIFICATION OF LOCAL OFFICERS.

The act of Congress of January 11, 1894 (28 Stat. L., 26), enacts as follows, viz:

That no register or receiver shall receive evidence in, hear, or determine any cause pending in any district land office in which cause he is interested, directly or indirectly, or has been of counsel, or where he is related to any of the parties in interest by consanguinity or affinity within the fourth degree, computing by the rules adopted by the common law.

SEC. 2. That it shall be the duty of every register or receiver so disqualified to report the fact of his disqualification to the Commissioner of the General Land Office as soon as he shall ascertain it, and before the hearing of such cause, who thereupon, with the approval of the Secretary of the Interior, shall designate some other register, receiver, or special agent of the Land Department to act in the place of the disqualified officer, and the same authority is conferred on the officer so designated which such register or receiver would otherwise have possessed to act in such case.

LAND PATENTS.

All patents issuing from the General Land Office are issued in the name of the United States, are signed by the President, and countersigned by the recorder of the General Land Office, and are recorded in the office in books kept for the purpose. (Sec. 458, Rev. Stat.)

Patents for lands entered or located under general laws can be issued only in the name of the party making the entry or location, or, in case of his death before making proof, to the statutory successor making the proof, as provided by law.

The recitals and description of land in patents will in all cases follow the register's certificate of entry or location, as prescribed by law.

When patents are ready for delivery, they will in all cases be transmitted to the local office at which the location or entry was made, where they can be obtained by the party entitled thereto, upon surrender of

the duplicate receipt, or certificate, as the case may be, unless the duplicate shall have been previously filed in this office with a request that the patent be delivered as requested by the person sending the same; and in no case will the patent be delivered, either from this or the local office, except upon receipt of such duplicate, or, in case of its loss from any cause, upon the filing in lieu of the same of an affidavit made by the present bona fide owner of the land, accounting for the loss of the same, and also showing ownership of the tracts or a portion thereof embraced in the patent.

It is provided in section 8 of the act of March 3, 1891 (26 Stat. L., 1093; Appendix No. 44, p. 221), that suits by the United States to vacate and annul any patent previously issued shall only be brought within five years from the passage of said act, and suits to vacate and annul patents thereafter issued shall only be brought within six years after the date of the issue of such patents.

By act of March 2, 1896 (29 Stat., 42; Appendix No. 67, p. 240), the time within which such suits might be brought, so far as regards patents issued under a railroad or wagon-road grant, was extended so as to admit of bringing suit in such cases within five years from the passage of the act in cases of patents issued prior thereto, and in cases of patents issued thereafter within six years after the date of the issuance of the patents, with a provision protecting the titles of bona fide purchasers of such lands.

With reference to furnishing certified copies of patents, see page 137.

STATES IN WHICH THERE ARE NO DISTRICT LAND OFFICES.

Any vacant tracts of public land in Ohio, Indiana, and Illinois, States in which there are no land offices, may, under the act of March 3, 1877 (19 Stat. L., 315), be entered at the General Land Office, subject to the provisions of law touching the entry of public lands, and the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths under the provisions of the act of May 26, 1890 (26 Stat. L., 121; Appendix No. 38, p. 213), and moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury. In carrying into effect the provisions of this act the following method will be observed:

A clerk has been designated by the Commissioner to receive and act upon the applications which may be offered for such entries and to have charge of the correspondence connected therewith. All moneys received go into the charge of the receiving clerk (designated under section 461 of the Revised Statutes; Appendix No. 1, p. 143), and any moneys found to belong to the United States on the cases being finally passed upon are turned over to the Treasury according to law.

Applications will be immediately entered in a preliminary abstract for each State in the order in which they are received; will be carefully examined in connection with the plats, files, and records, and admitted or rejected according to the law and instructions governing the case.

From such preliminary abstracts the admitted applications will be carried to a regular monthly abstract, and the proper certificates and receipts will be issued by the Commissioner, acting as ex officio register and receiver. The entries thus admitted will be properly posted in the tract books, and the papers therefor placed on file for such further action as may be necessary. These entries will be numbered consecutively in continuation of the series entered upon at the respective district offices. The applicants will be promptly advised of the result of

the examination, and, where the desired entries are admitted, will be furnished with the appropriate paper, to be held as evidence of title until the delivery of the patents.

In case of conflicting applications, that which is first received will be first acted upon, as above directed, and will be considered as giving the applicant the legal right to the tract applied for if unexceptionable in other respects.

REJECTED APPLICATIONS TO MAKE ENTRY.

Where an application to file for or enter public land is refused by the register and receiver they must notify the applicant of the rejection of the application and the cause thereof, and that he is allowed thirty days for appeal to the Commissioner of the General Land Office. Rejected applications will be retained by the register and receiver on the files of their office.

When notice of rejection is sent through the mails, five days will be allowed for the transmission of the notice, and five days for the transmission of an appeal, making forty days in all from the issue of notice in which to place the appeal on file in the district land office.

APPEALS.

Appeals must be in writing and be filed in the district land office. An appeal should state as plainly as possible the ground of objection to the decision appealed from. The register and receiver will at once transmit the appeal to the General Land Office. No appeal from the decision of the local land office will be received at the General Land Office unless forwarded through the local officers in the manner herein prescribed.

REPORT OF REGISTER AND RECEIVER.

The appeal should be accompanied by a report upon the case by the register and receiver. This report should recite the proceedings had, to wit: The application and rejection, with the reasons therefor; the status of the tract involved, as shown by the records of the office, together with a reference to all entries, filings, annotations, memoranda, and correspondence shown by such record relating thereto, so as to direct the attention of the Commissioner to all the material facts and issues necessary to a proper determination of the questions presented.

The report should be forwarded at once upon the filing of the appeal, except in contested cases after regular hearing, when, unless all parties request its earlier transmission, it should not be made until the expiration of the thirty days included in the notice, in order that all parties may have full opportunity to examine the record and prepare their arguments upon the questions at issue.

All documents once received must be kept on file with the cases, and no papers will be allowed under any circumstances to be removed from such files or taken from the custody of the register and receiver; but access to the same, under proper rules, so as not to interfere with necessary public business, should be permitted to the parties in interest, under the supervision of those officers.

ACTION OF GENERAL LAND OFFICE.

Of the sufficiency of such appeal the General Land Office will be the judge, and will dismiss from further notice any case wherein the appeal is based upon frivolous grounds, or where the proper formalities are wanting, unless, either in the record of the case or upon the books of this office, some sufficient cause shall be found for further consideration under the general power of supervision vested in the Commissioner by law.

APPEAL FROM THE GENERAL LAND OFFICE.

Upon any question relating to the disposal of the public lands appeal from the decision of the Commissioner of the General Land Office will lie to the Secretary of the Interior (Rev. Stat., secs. 441, 2273; Appendix No. 1, pp. 143 and 149), except in cases of interlocutory orders and decisions and orders for hearing, or other matters resting in the sound discretion of the Commissioner. These cases constitute matters of exception, which should be noted, and they will be considered by the Secretary on review.

The appeal is required to be made in writing, fairly and specifically stating the points of exception to the decision appealed from, and must be filed either with the register and receiver for transmission or with the Commissioner, within sixty days from receipt, by the party or his attorney, of the notice of the decision. When notice is given through the mail by the register and receiver, five days are allowed for the transmission of the letter from the local land office, and five days for the return of the appeal through the same channel, making a total of seventy days from date of mailing.

After appeal is filed the fact of its receipt and pendency will be promptly communicated to the district office and to the parties, and thirty days from service of such notice will be allowed for the filing of argument on the points involved in the controversy. At the expiration of the time prescribed the papers and record will be forwarded to the Secretary of the Interior. All arguments shall be filed with the Commissioner within the time specified in the notice in order that they may be referred to and considered in transmitting the case to the Secretary, if deemed expedient by the Commissioner. Examination of cases on appeal to the Secretary will be facilitated by filing in printed form such argument as it is desired to have considered.

Decisions of the Commissioner not appealed from within the period prescribed become final and the case will be regularly closed. (Sec. 2273, Rev. Stat.; Appendix No. 1, p. 149.)

The decision of the Secretary is necessarily final so far as respects the action of the Executive.

The minor details of the manner of proceeding in cases of contest before the Commissioner of the General Land Office and the Secretary of the Interior, for the information and guidance more especially of land officers and attorneys, may be found set forth in a separate pamphlet entitled Rules of Practice.

DEPOSITS FOR SPECIAL SURVEYS.

1. The provisions of law governing such surveys and the issue and application of certificates of deposit on account thereof, are sections 2401, 2402, and 2403, as amended by the act of August 20, 1894.

SEC. 2401 (as amended by act of August 20, 1894):

When the settlers in any township not mineral or reserved by the Government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of the surveyor-general, and shall file an application therefor in writing and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, to survey such township or such public lands owned by said grantees of the Government, and make return thereof to the general and proper local land office: *Provided*, That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for township and subdivisional surveys.

SEC. 2402:

The deposit of money in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sums so deposited for the objects contemplated by that section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying-service, but any excesses in such sums over and above the actual cost of the surveys, comprising all expenses incident thereto for which they were severally deposited, shall be repaid to the depositors, respectively.

SEC. 2403 (as amended by the act of August 20, 1894):

Where settlers or owners or grantees of public lands make deposits in accordance with the provisions of section twenty-four hundred and one, as hereby amended, certificates shall be issued for such deposits, which may be used by settlers in part payment for the lands settled upon by them, the survey of which is paid for out of such deposits, or said certificates may be assigned by indorsement, and may be received by the Government in payment for any public lands of the United States in the States where the surveys were made, entered, or to be entered, under the laws thereof.

APPLICATION FOR SURVEYS.

2. The amended law authorizes applications for surveys by settlers, or by persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or by the owners or grantees of public lands of the United States under any law thereof.

SETTLERS' APPLICATIONS.

3. The law contemplates bona fide surveys upon bona fide applications by actual settlers. Settlers are persons who have attached themselves permanently to the soil. Nomadic persons and persons employed by others to make applications for surveys or to make alleged settlements for the purpose of acquiring a title to lands to be transferred to others are not settlers within the meaning of the law and are not lawful applicants under the provisions allowing *settlers* to make deposits for public-land surveys.

4. In the case of applications for surveys by settlers the body of such settlers in the township, the survey of which is desired, must join in the application. There must also be a sufficient number of settlers to show good faith and to indicate that the survey is honestly desired for the benefit of existing actual settlements as contemplated by the law.

5. Applications for surveys must be made in writing, and must designate, as nearly as practicable, the township to be surveyed, and state that the applicants are well acquainted with the character and condition of the land included in said township, and that the same is not mineral or reserved by the Government. Such applications must also particularly describe the land sought to be surveyed, stating whether the same is cultivable, grazing, timber, desert, swamp, mountainous, rocky, etc., and the reasons why it is claimed to be nonmineral, and

must state the number of settlers in the township, the character and duration of their inhabitancy of the land, the extent and value of their improvements, the uses made of the land, and the quantity under cultivation. The situation of the township in respect to lines of public communication and the progress of the settlement of the country should be described, and all facts and circumstances stated which will enable an intelligent judgment to be formed in respect to the propriety of making the survey applied for. These statements must be verified by affidavit, and applicants must also declare that their applications are made in good faith and not for the purpose of enabling a surveying contract to be obtained, nor at the instance or in the interest or for the benefit of any other person.

6. Townships within known mineral belts or known to contain mineral lands or lands reserved by the Government are *not* surveyable under this system.

7. Surveys under the deposit system are authorized only where "the township so proposed to be surveyed *is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.*" Under this provision of the law it will be held that only township exteriors and subdivisional lines are surveyable, and that the deposit system is not applicable to the survey of standard lines or bases.

8. Retracements, or the resurvey of lines previously surveyed will not be deemed authorized under the deposit system.

9. Surveyors general will critically examine all applications for survey, testing the accuracy and reliability of the statements made by their knowledge of persons and lands and the best information they can obtain. They will reject all applications not believed by them to be made in good faith and upon truthful statements of fact.

10. When an application for survey is approved by the surveyor-general he will transmit the same to this office, with the required proofs and his report upon the same, giving his reasons in full for the recommendation made. It is not believed that fictitious applications, or applications procured at the instance of surveyors or of operators in contract surveys, or applications designed to open unsettled townships to fraudulent entry, can successfully be imposed upon vigilant and faithful officers. Surveyors-general will therefore be held to strict accountability for their recommendation of applications or contracts hereafter found to be fictitious, fraudulent, or speculative.

11. If the application is approved by this office it will be returned to the surveyor-general with authority to furnish the necessary estimate to applicants, and, upon proper deposit being made, to enter into contract for the execution of the survey.

12. The surveyor-general will furnish applicants with two separate estimates, one for the field work and one for office expenses. He will estimate adequate sums, and the practice of requiring additional deposits to cover excess costs will be discontinued, except when expressly authorized by this office.

13. Upon receiving such estimates applicants may deposit, in a proper United States depository (which should be in the land district in which the township to be surveyed is situated), to the credit of the Treasurer of the United States on account of surveying the public lands and expenses incident thereto, the sum so estimated as the total cost of the survey, including field and office work. If there be no public depository in the land district in which the lands are situated, the deposit may be made in an adjacent land district.

14. Surveyors-general will not under any circumstances accept, for the purpose of making the deposit, moneys from applicants for surveys, either field or office work, but will instruct the applicants to deposit the amount in accordance with the instructions contained in preceding paragraph.

15. For convenience in the use and application of certificates, the deposits should be made in such sums as that no certificate shall bear a face value of more than $200.

16. Applicants must be instructed fully as to the necessity of immediately transmitting the *original* certificate to the Secretary of the Treasury, the *duplicate* to the surveyor-general, and the retention of the *triplicate.*

17. When evidence of the required deposit is furnished in accordance with the foregoing regulations the surveyor-general will invite proposals for the survey by notice posted in his office for a period of thirty days, specifying the survey to be made, and stating that the contract will be let to the lowest responsible bidder (being a practical and reliable surveyor) at rates not exceeding those established by law for surveying the public lands. A copy of such notice will also be transmitted by the surveyor-general to the register and receiver of the land district in which the township to be surveyed is situated, and it shall be the duty of registers and receivers to post such notices conspicuously in their offices.

18. The surveyor-general will prepare a contract with the accepted bidder, and transmit the same to this office for approval in the usual manner.

19. Triplicate certificates of deposit are receivable from the settlers making the deposits in part payment for the lands settled upon by them the surveying of which is paid for out of such deposits.

20. The triplicate certificates may be assigned by indorsement, and when so assigned may be received in payment for any public lands of the United States entered or to be entered under the laws thereof in the States in which the lands surveyed for which the deposit was made are situated.

21. Such certificates hereafter issued will not be regarded as assignable or receivable until the township for the survey of which the deposit was made has been surveyed and the plat thereof filed in the district land office.

22. Where the amount of a certificate or certificates is less than the value of the lands taken the balance must be paid in cash.

23. Where the certificate is for an amount greater than the cost of the land, but is surrendered in full payment for such land, the receiver will indorse on the triplicate certificate the amount for which it is received, and will charge the United States with that amount only.

24. There is no provision of law authorizing the issue of duplicate certificates for certificates lost or destroyed.

EXCESS REPAYMENTS.

25. Where the amount of the deposit is greater than the cost of the survey, including field and office work, the excess is repayable upon an account to be stated by the surveyor-general.

26. The surveyor-general will in all cases be careful to express upon the register's township plat the amount deposited by each individual, the cost of survey in the field and office work, and the amount to be refunded in each case.

27. Before transmitting accounts for refunding excesses the surveyor-general will indorse on the back of the triplicate certificate the following: "$—— refunded to ———, by account transmitted to the General Land Office with letter dated ———," and will state in the account that he has made such indorsement. Where the whole amount deposited is to be refunded the surveyor-general will require the depositor to surrender the triplicate certificate, and will transmit it to this office with the account.

28. No provision of law exists for refunding to other than the depositor, nor otherwise than as referred to in the preceding sections.

ASSIGNMENTS.

29. Certificates "may be assigned by indorsement." The indorsement required is that the person in whose name the deposit is made shall write his name on the back of the triplicate certificate.

30. When there are several parties to or assignees of one certificate the register and receiver will make the proper indorsement on the triplicate certificate, showing the satisfaction of the pro rata share of each party interested. They will make the same notes on the register's certificate of purchase and the receiver's original and duplicate receipts.

31. When the entire amount of a certificate is not satisfied at the same time, the triplicate should be retained by the receiver until satisfied. But such certificate should, as far as practicable, be satisfied during the current quarter.

32. Certificates are not receivable in payment of fees and commissions chargeable by registers and receivers under section 2238, Revised Statutes of the United States.

REGISTERS' AND RECEIVERS' RETURNS.

33. In their monthly cash abstracts the register and receiver will designate the entries in which certificates of deposit are used and the balance paid in cash, if any, noting on the certificates of purchase and receipt the manner of payment. The receiver in his monthly account current will debit the United States with the amount of such certificates, and in his quarterly accounts will specify each entry with these certificates, giving number, date, amount for which received, by whom and with whom the deposit was made, and debit the United States with the same.

34. The receiver must write across the face of each accepted certificate the date of its receipt in payment of land, the number of the entry, and description of the tracts sold.

35. Certificates received in payment for lands sold must be forwarded once a month to this office, with letter of transmittal and abstract. (Form 4–543.)

36. Surveyors-general are directed to instruct their deputies that they must designate in the field notes and plats of their surveys the location of each and every settlement within a township surveyed, whether permanent in character or not, together with the names of such settlers and their improvements, if any.

37. When no settlers are found in a township the field notes of survey must expressly so state, and an omission to describe the settlements and improvements, or the absence of one or both in the field notes and plat, will be deemed a sufficient cause to infer fraud, and the accounts of the deputy will be suspended until such omission shall have been supplied. A suspension of the commission of the deputy

will in the meantime take place, and all the facts will be reported to this office for consideration and action.

38. In every case of a contract heretofore or hereafter approved which the surveyor-general has reason to believe was fraudulently procured, such contracts and the accounts thereunder must be immediately suspended and the facts reported to this office.

CERTIFICATES ISSUED PRIOR TO AUGUST 20, 1894.

39. Receivers of public moneys in accepting in payment for public lands certificates issued for deposits made under the provisions of section 2401 (prior to the amendments of said section by the act of August 20, 1894) are guided by the following instructions:

40. The triplicate certificates representing such deposits are receivable from the settlers making the deposits in part payment for their lands entered under the preemption and homestead laws and situated in the township the surveying of which was paid for out of such deposits.

41. The said triplicate certificates may be assigned by indorsements and when so assigned be received in payment for lands "entered by settlers under the preemption and homestead laws" of the United States in accordance with the provisions contained in the following paragraphs.

42. Triplicate certificates issued prior to the act of March 3, 1879, can be used only in payment for lands situated in the township, the surveying of which was paid for out of such deposits.

43. Triplicate certificates issued subsequent to the act of March 3, 1879, and prior to the act of August 7, 1882, can be used in payment for lands in any land district.

44. Triplicate certificates issued on and after August 7, 1882, and prior to August 20, 1894, can be used in payment for lands only in the land district in which the surveyed township is situated, except when issued for additional deposits upon contracts entered into prior to August 7, 1882.

45. Triplicate certificates issued subsequent to the act of August 20, 1894, for additional deposits to cover costs of surveys under contracts entered into prior to August 20, 1894, can be used only in payment for lands "entered by settlers under the preemption and homestead laws" of the United States and in conformity to existing law at the date such contract was made.

COAL CLAIMANTS' APPLICATIONS.

In addition to the rights of settlers, referred to in the foregoing portions of this circular, sections 2401, 2402, and 2403, United States Revised Statutes, as amended by the act of August 20, 1894, embrace provisions in favor of "persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof."

The coal-land laws contained in sections 2347 to 2352, United States Revised Statutes, provide methods by which persons properly qualified may become lawfully possessed of coal lands even before the survey of the lands, and be entitled to enter the same after survey. For particular information in regard thereto reference is made to departmental circular of July 31, 1882, entitled, Coal Land Laws and Regulations Thereunder. Such parties, in cases where the tracts of which they are lawfully possessed are still unsurveyed, may, under said sections 2401,

2402, and 2403, as amended by act of August 20, 1894, apply to the surveyor-general for the surveying district in which the lands are included for a survey of the township or townships including the land, according to the provisions of said sections. Such an application must be accompanied by the affidavit of the applicant or applicants substantially as prescribed for declaratory statements on page 7 of the said circular of July 31, 1882, corroborated by the testimony of two or more witnesses, in which the qualifications of the applicants, the character and location of the land, indicating the township or townships in which it is included as nearly as practicable, and other essential facts must be so set forth as to satisfy the surveyor-general that the case comes properly within the provisions of the law as above given. He will thereupon, if he approves the application, transmit the same to this office, with the required proofs and his report. Subsequent proceedings will be governed by the regulations as hereinbefore given under the head of "Settlers' applications."

OWNERS' OR GRANTEES' APPLICATIONS.

The same rights accorded to settlers and to persons and associations lawfully possessed of coal lands, and otherwise qualified to make entry thereof, are extended also to "the owners or grantees of public lands of the United States under any law thereof," and substantially the same instructions will apply to the last-mentioned class of cases as those above expressed with regard to the other classes of cases. The applicants must produce with their applications proof of their ownership of the land, to consist of their own affidavits, corroborated by witnesses, and such other proof as may be available to satisfy the surveyor-general of the essential facts, including a showing of the location of the land, in what township or townships situated, as nearly as practicable, the statute making the grant, or other source of title, as well as the identity of the applicants, with the true owners or grantees.

The surveyor-general, if he approve the application, will transmit the same to this office with the proofs and his report as provided for in the other classes of cases. In regard to subsequent proceedings, the instructions given under the head of "Settlers' applications" will generally apply.

REGULATIONS GOVERNING THE RECOGNITION OF AGENTS AND ATTORNEYS BEFORE DISTRICT LAND OFFICES.

1. An attorney at law who desires to represent claimants or contestants before a district land office must file a certificate, under the seal of a United States, State, or Territorial court for the judicial district in which he resides or the local land office is situated, that he is an attorney in good standing.

2. Any person (not an attorney at law) who desires to appear as an agent for claimants or contestants before a district land office must file a certificate from a judge of a United States court, or of a State or Territorial court having common-law jurisdiction, except probate courts, in the county wherein he resides or the local office is situated, duly authenticated under the seal of the court, that such person is of good moral character and in good repute, possessed of the necessary qualifications to enable him to render clients valuable service, and otherwise competent to advise and assist them in the presentation of their claims or contests.

3. The oath of allegiance required by section 3478 of the United States Revised Statutes must also be filed by applicants. In case of a firm, the names of the individuals composing the firm must be given, and a certificate and oath as to each member of the firm will be required.

4. An applicant to practice under the above regulations must address a letter to the register and receiver, inclosing the certificate and oath above required, in which letter his full name and post-office address must be given. He must state whether or not he has ever been recognized as an attorney or agent before this Department or any bureau thereof, or any of the local land offices, and if so, whether he has ever been suspended or disbarred from practice. He must also state whether he holds any office under the Government of the United States.

After an application to practice has been filed in due form, the register and receiver will recognize the applicant as an attorney or agent, as the case may be, unless they have good reason to believe that the person making the application is unfit to practice before their offices, or unless otherwise instructed by the Commissioner or Secretary.

Registers and receivers must keep a record of the names and residences of all attorneys and agents recognized as entitled to represent clients in their several offices.

Every attorney must, either at the time of entering his appearance for a claimant or contestant or within thirty days thereafter, file the written authority for such appearance, signed by said claimant or contestant, and setting forth his or her present residence, occupation, and post-office address. Upon a failure to file such written authority within the time limited, it is the duty of the register and receiver to no longer recognize him as attorney in the case.

An attorney in fact will be required to file a power of attorney of his principal, duly executed, specifying the power granted and stating the party's present residence, occupation, and post-office address.

When the appearance is for a person other than a claimant or contestant of record the attorney or agent will be required to state the name of the person for whom he appears, his post-office address, the character and extent of his interest in the matter involved, and when and from what source it was acquired. Authorizations and powers signed or executed in blank will not be recognized.

If any attorney or agent shall knowingly commit any of the following acts, viz: Represent fictitious or fraudulent entrymen; prosecute collusive contests; speculate in relinquishments of entries; assist in procuring illegal or fraudulent entries or filings; represent himself as the attorney or agent of entrymen when he is only attorney or agent for a transferee or mortgagee; conceal the name or interest of his client; give pernicious advice to parties seeking to obtain title to public land; attempt to prevent a qualified person from settling upon, entering, or filing for a tract of public land properly subject to such entry or filing, or be otherwise guilty of dishonest or unprofessional conduct, or who, in connection with business pending in local land offices or in this Department, shall knowingly employ as subagent, clerk, or correspondent a person who has been guilty of any one of these acts, or who has been prohibited from practicing before the register and receiver or this Department, it will be sufficient reason for his disbarment from practice, and registers and receivers are authorized to refuse to further recognize any person as agent or attorney who shall be known to them or be proven before them to be guilty of improper and unprofessional conduct as above stated.

An attorney or agent who has been admitted to practice in any par-

ticular land district may be enrolled and authorized to practice in any other district upon filing with the register and receiver of such district a certificate of the register or receiver before whom he was admitted to practice that he is an attorney or agent in good standing.

Any unprofessional conduct on the part of an attorney or agent should be reported to the Commissioner at once, together with the action of the local land officers in the premises.

Appeals from the action of the register and receiver in refusing to admit to practice or in refusing to further recognize an agent or attorney will lie to the Commissioner and Secretary, as in other appealable cases. (Circular approved March 19, 1887, 5 L. D., 508.)

REPAYMENTS.

Section 2362 of the Revised Statutes (Appendix No. 1, p. 159) provides for repayment to the purchaser, or his legal representatives or assignees, upon proof "that any tract of land has been erroneously sold by the United States, so that from any cause the sale can not be confirmed."

Section 2 of the act of June 16, 1880 (21 Stat. L., 287; Appendix No. 21, p. 179), provides that "in all cases where homestead, or timber-culture, or desert-land entries, or other entries of public lands have been heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and can not be confirmed," the amount of purchase money, fees, and commissions may be repaid.

DEFINITION OF "ERRONEOUSLY ALLOWED."

This can not be given an interpretation of such latitude as would countenance fraud. If the records of the Land Office, or the proofs furnished, should show that the entry ought not to be permitted, and yet it were permitted, then it would be "erroneously allowed." But if a tract of land were subject to entry, and the proofs showed a compliance with law, and the entry should be canceled because the proofs were shown to be false, it could not be held that the entry was "erroneously allowed;" and in such case repayment would not be authorized.

APPLICATION FOR REPAYMENT OF PURCHASE MONEY.

In applications for repayment where patent has not issued, the duplicate receipt must be surrendered. The applicant must make affidavit that he has not transferred or otherwise encumbered the title to the land and that the same has not become a matter of record. This affidavit may be made before either the register or receiver of the district land office, or before any officer authorized to administer oaths. When made before a notary public or justice of the peace a certificate of official character is required.

Where the duplicate receipt has been lost or destroyed, a certificate will also be required from the proper recording officer, showing that the same has not become a matter of record and that there is no incumbrance of the title to the land thereunder. A like certificate must be furnished when the application is made by another than the original purchaser.

Where a patent has been executed and delivered it must be surrendered.

Where the title has become a matter of record, and in all cases where patent has issued, a duly executed deed, relinquishing to the United States all right and claim to the land under the entry or patent, must accompany the application. This deed must be duly recorded, and a certificate must also be produced from the proper recording officer where the land is situated, showing that said deed is so recorded and that the records of his office do not exhibit any other conveyance or incumbrance of the title to the land.

Where a valid title to the land embraced in a canceled entry has been conveyed by the Government to other parties, the applicant for repayment under such canceled entry must reconvey to the United States the title derived from such invalid entry. If, however, the applicant has acquired the valid title already conveyed by the United States, it will not be necessary for him to reconvey the land, but he may make a full statement, with corroborative evidence of the facts, waiving all claim under the invalid entry, and thereupon receive repayment of the amount erroneously paid.

The reconveyance to the United States must conform in every particular to the laws of the State or Territory in which the land is located relative to transfers of real property; in the case of a married man, in localities where the right of dower exists, there must be a release of dower by the wife, and in case of an executor or administrator, due proof of authority to alienate the estate.

HEIRS, EXECUTORS, AND ADMINISTRATORS.

Where application is made by heirs, satisfactory proof of heirship is required. This must be the best evidence that can be obtained, and must show that the parties applying are the heirs and the only heirs of the deceased. Where application is made by executors, a certificate of executorship from the probate court must accompany the application.

Where application is made by administrators, the original or a certified copy of the letters of administration must be furnished.

ASSIGNEES.

Assignees of land who purchase after entry are, in general, deemed entitled to receive the repayment when the lands are found to have been erroneously sold by the Government. But this rule does not apply to the repayment of double minimum excesses.

Where applications are made by assignees, the applicants must show their right to repayment by furnishing properly authenticated abstracts of title, or the original deeds or instruments of assignment, or certified copies thereof, and also show by affidavits or otherwise that they have not been indemnified by their grantors or assignors for the failure of title, and that title has not been perfected in them by their grantors through other sources.

Where there has been a conveyance of the land and the original purchaser applies for repayment, he must show that he has indemnified his assignee or perfected the title in him through another source, or produce a full reconveyance to himself from the last grantee or assignee.

REPAYMENT OF FEES, COMMISSIONS, AND EXCESSES.

The first section of the act of June 16, 1880, provides for the repayment to *innocent parties* of the fees, commissions, and excess payments made upon soldiers' additional homestead entries which were, after location, found to be fraudulent and void and have therefore been canceled.

Applications for repayment under this section must be accompanied by the duplicate receipt, or evidence of the loss of the same, and by a concise statement under oath setting forth all the facts and circumstances connected with the procurement and use of the fraudulent papers upon which the canceled entries were based, together with such documentary or other proof as may tend to establish the innocence of the parties relative thereto.

In the case of soldiers' additional homestead entries, repayment of fees, commissions, and excesses can be made only to the party who paid the same—not to a party to whom the claimant conveyed the land.

In the case of applications for the repayment of fees, commissions, etc., on canceled homestead and other entries, under the second section of the act, the duplicate receipt must be surrendered, with a relinquishment of all right, title, and claim in and to the land described in the receipt indorsed thereon, attested by two witnesses, and acknowledged before the register and receiver or before any officer authorized to take acknowledgments. If the duplicate receipt has been lost or destroyed, an affidavit stating the fact must be furnished, together with a relinquishment of the character indicated. The applicant must make affidavit that he has not made another entry with the credit of the fee and commission paid by him on the canceled entry.

REPAYMENT OF DOUBLE MINIMUM EXCESS.

The last clause of the second section of the act of June 16, 1880, provides that "in all cases where parties have paid double minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of $1.25 per acre shall in like manner be repaid to the purchaser thereof or to the heirs or assigns." In such cases the duplicate receipt must be surrendered; or if lost or destroyed, an affidavit stating that fact must accompany the application.

Repayment of double minimum excesses will be made only to the original entryman, his heirs, or legal representatives, or to the assignee, specifically, of the excess purchase money. The sale and transfer of the land is not of itself treated as an assignment of the right to receive repayment of double minimum excess.

TRANSMITTAL OF APPLICATIONS.

All applications for repayment under the above provisions must be made in writing and be signed by the party applying, and must describe the tract or otherwise designate the entry with certainty. They should be transmitted, with all the papers in the case, through the register and receiver of the proper district land office, who will make due report thereon.

REPAYMENTS UNDER THE ACT OF MARCH 3, 1887.

In addition to the provisions for repayment mentioned in the foregoing, there are special provisions contained in the act of March 3, 1887, entitled "An act for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas." (24 Stat. L., 550; Appendix, No. 30, p. 184.) Under these provisions three classes of persons who settled upon or purchased lands within the grant made by an act entitled "An act for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas Railroad

and Telegraph," approved July 23, 1866, are entitled to reimbursement, viz:

1. All persons, their grantees, heirs, and devisees, who settled upon or purchased lands within the limits of the grant in question, and to whom patents have been issued, but against whom decrees have been, or may hereafter be, rendered by the United States circuit court on account of the priority of the railroad grant.

2. Any person, his grantees, heirs, assigns, or devisees, who shall prove to the satisfaction of the Secretary of the Interior that his case is like those of the class above described, except that he has not been sued and subjected to judgment, and that he has, in good faith, without litigation, paid to the person holding the prior title by the railroad grant the sum demanded of him.

3. Only actual and bona fide settlers on the lands referred to in the preceding sections, their grantees, heirs, representatives, or devisees, are entitled to reimbursement under the decree, not to exceed $3.50 per acre; but no one person shall be entitled to compensation at such rate for more than 160 acres.

4. All other persons who purchased any part of said lands at $1.25 per acre, their heirs, assigns, or legal representatives, are entitled to repayment at $1.25 per acre, provided said money was actually paid into the Treasury.

In the execution of this act the following regulations are prescribed:

1. All applications under this act must be made in writing, and be signed by the party applying, and must describe the tract and designate the entry with certainty.

2. Claimants of the class first described must file copy of the decree, duly certified by the clerk and under the seal of the court rendering the same, to the effect that such a decree was rendered in a bona fide controversy between a plaintiff showing title under the grant and a defendant holding the patent or holding by deed under the patentee, and that the decision was in favor of the plaintiff on the ground of the priority of the grant made by said act to the filing, settlement, or purchase by the defendant or his grantor.

3. Claimant must also file with said decree and certificate a bill of costs in such case, duly certified by the clerk and under the seal of the court in which the decree was rendered.

4. Claimants of the second class will be required to furnish a certified copy of the record of the transfer from said company, or from the company's grantee, with evidence that he has in good faith paid to the person holding the prior title the sum demanded of him without litigation.

5. Claimants of the third class should apply for a refundment of purchase money in accordance with regulations governing the repayment of purchase money for lands erroneously sold.

6. When the grantee, assignee, or devisee of the original purchaser makes application under this act, he must, in addition to the foregoing, show his right to receive the money by furnishing proper authenticated abstracts of title, or the original deed or instrument of assignment, or of the will, or certified copies thereof.

7. When application is made by heirs, satisfactory proof of heirship is required.

8. When application is made by executors, the original or a certified copy of letters testamentary must accompany the application.

9. When application is made by administrators, the original or a certified copy of letters of administration must be furnished.

10. All parties who are entitled to repayment under the aforesaid act will be required to execute a relinquishment, which must accompany the application, in the following or equivalent form:

Know all men by these presents, that I, ——, of ——, for and in consideration of the sum of ——, to me paid by the United States, have released and forever discharged the United States from all claim of any kind, nature, and character whatsoever, by virtue of the act of Congress approved March 3, 1887; and that I am the identical party named in the decree, in the case of —— *v.* ——, or who made said entry No. —, at —— land office, State of ——.

—— ——.

Two witnesses:

—— ——.

—— ——.

STATE OF ——, } ss:
County of ——. }

On this —— day of ——, 189–, before the subscriber, a —— in and for said county, personally came ——, to me well known to be the person who subscribed the foregoing release, and who upon being duly sworn by me according to law on —— oath declared and acknowledged that —— had freely and voluntarily executed the foregoing release and for the reason stated; and at the same time came ——, residing at ——, and also ——, residing at ——, each of whom being by me duly sworn according to law deposed and said, each for himself and not one for the other, that they well knew the person making the said release to be the individual described in the decree, or who made said entry and who executed the said release.

—— ——.

Subscribed, sworn to, and acknowledged before me this ——, 189–.

—— ——.

NOTE.—This must be acknowledged before a clerk of a court or other officer authorized to take acknowledgements of deeds in the county where the lands are situated, whose official character and signature must be certified to by the clerk of a court of record.

RULES AND REGULATIONS GOVERNING THE USE OF TIMBER ON THE PUBLIC DOMAIN.

[Circular of March 17, 1898.]

By virtue of the power vested in the Secretary of the Interior by the act of March 3, 1891 (26 Stat., 1093), the following rules and regulations are hereby prescribed:

1. The act, so far as it relates to timber on public lands, as extended by the act of February 13, 1893 (27 Stat., 444), applies only to the States of Colorado, Montana, Idaho, North Dakota, South Dakota, Wyoming, Nevada, and Utah, the Territories of Arizona and New Mexico and the District of Alaska.

The following rules and regulations do not apply to the district of Alaska, for which rules and regulations are prescribed on page 126 of this circular.

2. The intention of the act is to enable settlers upon public lands and other residents within the States and Territories above named who have not a sufficient supply of timber on their own claims or farms for use thereon for domestic purposes and who are unable to procure the needed timber from private lands, or from public lands under other authority of law, to secure from public lands, for said purposes, timber to supply their immediate and pressing wants.

Such being the case, it was not the intention of Congress to authorize the taking of timber from public lands in said States and Territories to serve as an article of merchandise and traffic, whereby profits might be

secured, not only from the labor bestowed in handling the timber, but by charging for the timber itself, after obtaining the same free of cost from the Government; which would practically open a door for speculation in public timber, resulting in the holders of permits being in a position to prevent competition and virtually control the market for timber in their localities.

3. Settlers upon public lands and other residents of the States and Territories above named who have not a sufficient supply of timber on their own claims or farms for use thereon for such domestic purposes as firewood, fencing, or building purposes, or for necessary use in developing the mineral and other natural resources of the lands owned or occupied by them, may procure timber, free of charge, from unoccupied, unreserved, *nonmineral* public lands within said States and Territories strictly for use on their own claims or lands therein for the purposes enumerated in this section (but not for sale or disposal, nor for use on other lands or by other persons, nor for export from the State or Territory where procured), to an extent not exceeding, in stumpage valuation, $100 in any one year.

It is not necessary to secure permission from the Department to take timber from public lands as above allowed. The exercise of such privilege is, however, subject at all times to supervision by the Department, with a view to restriction or prohibition, if deemed necessary.

4. In cases in which the parties needing the timber are not in a position to procure it from the public lands themselves, it is allowable for them to secure the cutting, removing, sawing, or other manufacture of the timber through the medium of others, agreeing with the parties thus acting as their *agents direct*, in taking or otherwise handling the timber, that they shall be paid a reasonable amount to cover their time and labor expended and all legitimate expenses incurred in connection therewith, *exclusive of any charge for the timber itself.*

5. The uses specified in section 3 of these rules and regulations constitute the *only* purposes for which timber may be taken, free of charge, from public lands in said States and Territories, under this act.

6. The cutting and removing of timber, free of charge, under said act of March 3, 1891, is confined to unreserved, unoccupied, *nonmineral* public lands, in the States and Territories named therein, inasmuch as the act specifically provides that the same shall not operate to repeal the act of June 3, 1878 (20 Stat., 88), which makes provision, in said States and Territories, for the free cutting of timber on public lands that are known to be of a strictly mineral character.

7. It is further provided in said act of March 3, 1891, that "nothing herein contained shall operate to enlarge the rights of any railway company to cut timber on the public domain." Consequently, no timber may be taken thereunder from public lands for use by any railroad company.

8. In order, however, that sufficient public timber may be placed upon the *home* market in said States and Territories, for all legitimate purposes of trade, to such a reasonable extent as shall meet existing emergencies in the matter of demand therefor, sales of timber on the unreserved lands, in general, mineral and nonmineral, in said States and Territories, may be directed by the Department from time to time.

The sale of timber is optional, and the Secretary may exercise his discretion at all times as to the necessity or desirability of any sale.

9. While sales of timber may be directed by this Department without previous request from private individuals, petitions from responsible persons for the sale of timber in particular localities will be considered.

Such petitions must describe the land upon which the timber stands by legal subdivisions, if surveyed; if unsurveyed, as definitely as possible by natural landmarks; the character of the country, whether rough, steep, or mountainous, agricultural or mineral, or valuable chiefly for its forest growth; and state whether or not the removal of the timber would injuriously affect the public interests. If any of the timber is dead, estimate the quantity in feet, board measure, with the value, and state whether killed by fire or other cause. Of the live timber, state the different kinds and estimate the quantity of each kind in trees per acre. Estimate the average diameter of each kind of timber, and estimate the number of trees of each kind per acre above the average diameter. State the number of trees of each kind above the average diameter it is desired to have offered for sale, with an estimate of the number of feet, board measure, therein, and an estimate of the value of the timber as it stands. These petitions must be filed in the proper local land office, for transmission to the Commissioner of the General Land Office.

10. Before any sale is authorized, the timber will be examined and appraised, and other questions involved duly investigated, by an official designated for the purpose; and upon his report action will be based.

11. When a sale is ordered, notice thereof will be given by publication by the Commissioner of the General Land Office; and if the timber to be sold stands in more than one county, published notice will be given in each of the counties, in addition to the required general publication.

12. The time and place of filing bids, and other information for a correct understanding of the terms of each sale, will be given in the published notices. Timber is not to be sold for less than the appraised value, and when a bid is accepted a certificate of acceptance will be issued by the Commissioner of the General Land Office to the successful bidder, who, at the time of making payment, must present the same to the receiver of public moneys for the land district in which the timber stands. The Commissioner of the General Land Office must approve all sales, and he may, in sales in excess of $500 in value, make allotment of quantity to any bidder or bidders, at a fixed price, if he deems proper, so as to avoid monopoly. The right is also reserved to reject any or all bids. A reasonable cash deposit with the proper receiver of public moneys, to accompany each bid, will be required.

13. Within thirty days after notice to a bidder of an award of timber to him, payment must be made in full to the receiver for the timber so awarded. The purchaser must have in hand the receipt of the receiver for such payment before he will be allowed to cut, remove, or otherwise dispose of the timber in any manner. The timber must all be cut and removed within one year from the date of the notice by the receiver of the award; failing to so do, the purchaser will forfeit his right to the timber left standing or unremoved and to his purchase money.

14. Sixty days' notice must be given by the purchaser, through the local land office, to the Commissioner of the General Land Office of the proposed date of cutting and removal of the timber, so that an official may be designated to supervise such cutting and removal, as required by law. Upon application of purchasers, permits to erect temporary sawmills for the purpose of cutting or manufacturing timber purchased under this act may be granted by the Commissioner of the General Land Office, if not incompatible with public interests. Instructions as to disposition of tops, brush, and refuse, to be given through the supervisors in each case, must be strictly complied with, as a condition of said cutting and manufacture.

15. The act provides that the timber shall be used in the State or Territory in which procured, and, consequently, it may not be exported therefrom.

16. Receivers of public moneys will issue receipts in duplicate for moneys received in payment for timber, one of which will be given the purchaser, and the other will be transmitted to the Commissioner of the General Land Office in a special letter, reference being made to the letter from the Commissioner authorizing the sale, by date and initial, and with title of case as therein named. Receivers will deposit to the credit of the United States all such moneys received, specifying that the same are on account of sales of public timber on unreserved lands under the act of March 3, 1891 (26 Stat., 1093). A separate monthly account current (Form 4–105) and quarterly condensed account (Form 4–104) will be made to the Commissioner of the General Land Office, with a statement in relation to the receipts under the act as above specified.

17. Special instructions will be issued for the guidance of officials designated to examine and appraise timber, to supervise its cutting and removal, and for carrying out other requirements connected therewith.

18. Section 2461, United States Revised Statutes, is still in force in the States and Territories herein named and its provisions may be enforced against any person, or persons, who cut or remove, or cause or procure to be cut or removed, or aid or assist or are employed in cutting or removing, any timber from public lands therein, except as allowed by law.

19. The Secretary of the Interior reserves the right to prescribe such further restrictions as he may at any time deem necessary, or to revoke the privileges granted, in any cases wherein he has information that persons are abusing the same, or when it is necessary for the public good.

20. The rules and regulations provided herein shall take effect April 1, 1898, and all rules and regulations heretofore prescribed under said act of March 3, 1891, relating to the use of timber on public lands in the above-named States and Territories, are hereby revoked.

RULES AND REGULATIONS CONCERNING THE USE OF TIMBER ON PUBLIC LANDS, MINERAL IN CHARACTER, IN CERTAIN STATES AND TERRITORIES.

By virtue of the power vested in the Secretary of the Interior by the first section of the act of June 3, 1878, entitled "An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes," the following rules and regulations have been prescribed:

First. The act applies only to the States of Colorado, Nevada, Utah, Wyoming, North Dakota, South Dakota, Idaho, and Montana, and to the Territories of New Mexico and Arizona, and other mineral districts of the United States not specially provided for.

Second. The land from which timber is felled or removed under the provisions of the act must be known to be of a strictly mineral character and that it is "not subject to entry under existing laws of the United States, except for mineral entry."

Third. No person not a citizen or bona fide resident of a State, Territory, or other mineral district, provided for in said act, is permitted to fell or remove timber from mineral lands therein. And no person, firm, or corporation felling or removing timber under this act shall sell or dispose of the same, or the lumber manufactured therefrom, to any other

than citizens and bona fide residents of the State and Territory where such timber is cut, nor for any other purpose than for the legitimate use of said purchaser for the purposes mentioned in said act.

Fourth. Every owner or manager of a sawmill or other person felling or removing timber under the provisions of this act shall keep a record of all timber so cut or removed, stating time when cut, names of parties cutting the same or in charge of the work, and describing the land from whence cut by legal subdivisions if surveyed, and as near as practicable if not surveyed, with a statement of the evidence upon which it is claimed that the land is mineral in character, and stating also the kind and quantity of lumber manufactured therefrom, together with the names of parties to whom any such timber or lumber is sold, dates of sale, and the purpose for which sold, and shall not sell or dispose of such timber or lumber made from such timber without taking from the purchaser a written agreement that the same shall not be used except for building, agricultural, mining, or other domestic purposes within the State or Territory; and every such purchaser shall further be required to file with said owner or manager a certificate, under oath, that he purchases such timber or lumber exclusively for his own use and for the purposes aforesaid.

Fifth. The books, files, and records of all mill men or other persons so cutting, removing, and selling such timber or lumber, required to be kept as above mentioned, shall at all times be subject to the inspection of the officers and agents of this Department.

Sixth. Timber felled or removed shall be strictly limited to building, agricultural, mining, and other domestic purposes within the State or Territory where it grew.

All cutting of such timber for use outside of the State or Territory where the same is cut and all removals thereof outside of the State or Territory where it is cut are forbidden.

Seventh. No person will be permitted to fell or remove any growing trees of any kind whatsoever less than 8 inches in diameter. This will not be regarded as applicable to black or "lodge-pole" pine growing in separate bodies upon mineral lands. (See order approved by the Secretary June 1, 1887.)

Eighth. Persons felling or removing timber from public mineral lands of the United States must utilize all of each tree cut that can be profitably used, and must cut and remove the tops and brush or dispose of the same in such manner as to prevent the spread of forest fires.

The act under which these rules and regulations were prescribed provides as follows:

SEC. 3. Any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

Ninth. These rules and regulations took effect September 1, 1886, and all existing rules and regulations theretofore prescribed under said act inconsistent herewith were thereby revoked.

REGULATIONS CONCERNING HOMESTEADS, RIGHTS OF WAY, TIMBER, ETC., IN ALASKA.

The following instructions, issued under the act of Congress approved May 14, 1898 (30 Stat., 409; Appendix No. 77, p. 248), entitled "An act extending the homestead laws and providing for right of way for

railroads in the District of Alaska, and for other purposes," are for the guidance of the local officers in their administration of the law and for the information of those concerned in its provisions.

Section 1 relates to

HOMESTEAD RIGHTS IN ALASKA,

and provides:

SEC. 1. That the homestead land laws of the United States and the rights incident thereto, including the right to enter surveyed or unsurveyed lands under provisions of law relating to the acquisition of title through soldiers' additional homestead rights, are hereby extended to the District of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu lands pertaining to any land grant whatsoever originating outside of said district of Alaska shall be located within or taken from lands in said district: *Provided*, That no entry shall be allowed extending more than eighty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims, and that nothing herein contained shall be so construed as to authorize entries to be made, or title to be acquired, to the shore of any navigable waters within said district: *And it is further provided*, That no homestead shall exceed eighty acres in extent.

1. This section may be summarized as—

First. Extending the homestead laws and the rights incident thereto to the District of Alaska;

Second. Extending to such district the right to enter surveyed lands under provisions of law relating to the acquisition of title through soldiers' additional homestead rights;

Third. Granting the right to enter unsurveyed lands in said District under provisions of law relating to the acquisition of title through soldiers' additional homestead rights;

Fourth. Prohibiting the location in said District of any indemnity, deficiency, or lieu lands pertaining to any land grant whatsoever originating outside of said district;

Fifth. Limiting each entry under this section to 80 rods along the shore of any navigable water, and reserving along such shore a space of at least 80 rods between all such claims, and prohibiting the entry or disposal of the shore (meaning land lying between high and low water mark) of any navigable waters within said district; and

Sixth. Limiting each homestead in said District, whether soldiers' additional or otherwise, to 80 acres in extent.

2. Full instructions with reference to the general homestead law and soldiers' additional homestead rights will be found elsewhere in this circular, and will, so far as applicable, govern the making of entries under this section.

3. Existing homestead laws, while recognizing settlement upon unsurveyed public lands do not authorize the entry or the patenting thereof until the public surveys have been regularly extended over them. This section, however, in terms authorizes the entry of unsurveyed lands in Alaska through the exercise of soldiers' additional homestead rights; but this does not apply to the general homestead right.

4. The act makes no direct provision for the surveying of lands sought to be entered as soldiers' additional homestead claims, and therefore special surveys must be made of such lands in the manner provided for in section 10 of this act, at the expense of the applicant.

5. A claim under this section, which extends to the shore line on any navigable stream, inlet, gulf, bay, or seashore, will be subject to the servitude provided for in that portion of section 10 which reads: "and a roadway sixty feet in width parallel to the shore line as near as may

be practicable, shall be reserved for the use of the public as a highway," and the lands subject to such servitude will be computed as a part of the area entered.

6. That part of section 10 relating to the execution of affidavits, testimony, proofs, and other papers, anywhere in the United States before any court, judge, or other officer authorized to administer an oath, applies equally to this section.

Sections 2 to 9, inclusive, relate to

RIGHT OF WAY FOR RAILROADS, WAGON ROADS, AND TRAMWAYS IN THE DISTRICT OF ALASKA.

These sections provide:

SEC. 2. That the right of way through the lands of the United States in the District of Alaska is hereby granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may hereafter file for record with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, excepting at terminals and junction points, which may include additional forty acres, to be limited on navigable waters to eighty rods on the shore line, and with the right to use such additional ground as may in the opinion of the Secretary of the Interior be necessary where there are heavy cuts or fills: *Provided*, That nothing herein contained shall be so construed as to give such railroad company, its lessees, grantees, or assigns the ownership or use of minerals, including coal, within the limits of its right of way, or of the lands hereby granted: *Provided further*, That all mining operations prosecuted or undertaken within the limits of such right of way or of the lands hereby granted shall, under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operations of the road over its said lands or right of way. And when such railway shall connect with any navigable stream or tide water such company shall have power to construct and maintain necessary piers and wharves for connection with water transportation, subject to the supervision of the Secretary of the Treasury: *Provided*, That nothing in this act contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of said district, or any part thereof, to tide lands and beds of any of its navigable waters, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may hereafter be erected out of said district. The term "navigable waters," as herein used, shall be held to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary high water mark. That all charges for the transportation of freight and passengers on railroads in the District of Alaska shall be printed and posted as required by section six of an act to regulate commerce as amended on March second, eighteen hundred and eighty-nine, and such rates shall be subject to revision and modification by the Secretary of the Interior.

SEC. 3. That any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway where such tramway, wagon road, or highway may be necessary for the public accommodation; and where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such tramway, wagon

road, or highway, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road or tramway: *Provided,* That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile, and that where the space is limited the United States district court shall require the road first constructed to allow any other railroad or tramway to pass over its track or tracks through such canyon, pass, or defile on such equitable basis as the said court may prescribe; and all shippers shall be entitled to equal accommodations as to the movement of their freight and without discrimination in favor of any person or corporation: *Provided,* That nothing herein shall be construed as depriving Congress of the right to regulate the charges for freight, passengers, and wharfage.

SEC. 4. That where any company, the right of way to which is hereby granted, shall in the course of construction find it necessary to pass over private lands or possessory claims on lands of the United States, condemnation of a right of way across the same may be made in accordance with section three of the act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two,'" approved July second, eighteen hundred and sixty-four: *Provided further,* That any such company, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter, to file the map and profile of definite location provided for in this act, and such preliminary survey and plat shall, during the said period of one year from the time of filing the same, have the effect to render all the lands on which said preliminary survey and plat shall pass subject to such right of way.

SEC. 5. That any company desiring to secure the benefits of this act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed, and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided,* That if any section of said road shall not be completed within one year after the definite location of said section so approved, or if the map of definite location be not filed within one year as herein required, or if the entire road shall not be completed within four years from the filing of the map of definite location, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way, stations, and terminals shall cease and become null and void without further action.

SEC. 6. That the Secretary of the Interior is hereby authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in said district, not to exceed one hundred feet in width, and ground for station and other necessary purposes, not to exceed five acres for each station for each five miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said district for the construction of said wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding twenty years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed twenty acres of public land at each terminus at one dollar and twenty-five cents per acre, such lands when located at or near tide water not to extend more than forty rods in width along the shore line and the title thereto to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such right of way or station grounds shall be reserved to the United States: *Provided,* That such lands may be located concurrently with the line of such road or tramway, and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: *Provided further,* That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject

to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes. And no right to construct a wagon road on which toll may be collected shall be granted unless it shall first be made to appear to the satisfaction of the Secretary of the Interior that the public convenience requires the construction of such proposed road, and that the expense of making the same available and convenient for public travel will not be less on an average than five hundred dollars per mile: *Provided*, That if the proposed line of road in any case shall be located over any road or trail in common use for public travel, the Secretary of the Interior shall decline to grant such right of way if, in his opinion, the interests of the public would be injuriously affected thereby. Nor shall any right to collect toll upon any wagon road in said district be granted or inure to any person, corporation, or company until it shall be made to appear to the satisfaction of said Secretary that at least an average of five hundred dollars per mile has been actually expended in constructing such road; and all persons are prohibited from collecting or attempting to collect toll over any wagon road in said district, unless such person or the company or person for whom he acts shall at the time and place the collection is made or attempted to be made possess written authority, signed by the Secretary of the Interior, authorizing the collection and specifying the rates of toll: *Provided*, That accurate printed copies of said written authority from the Secretary of the Interior, including toll, freight, and passenger charges thereby approved, shall be kept constantly and conspicuously posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than fifty dollars nor more than five hundred dollars, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

That any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this act that may heretofore have constructed not less than one mile of road, at a cost of not less than five hundred dollars per mile, or one-half mile of tramway at a cost of not less than five hundred dollars, shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this act over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. That if any party to whom license has been granted to construct such wagon road or tramway shall, for the period of one year, fail, neglect, or refuse to complete the same, the rights herein granted shall be forfeited as to any such uncompleted section of said wagon road or tramway, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way shall cease and become null and void without further action. And if such road or tramway shall not be kept in good condition for use, the Secretary of the Interior may prohibit the collection of toll thereon pending the making of necessary repairs.

That all mortgages executed by any company acquiring a right of way under this act, upon any portion of its road that may be constructed in said District of Alaska, shall be recorded with the Secretary of the Interior, and the record thereof shall be notice of their execution, and shall be a lien upon all the rights and property of said company as therein expressed, and such mortgage shall also be recorded in the office of the secretary of the District of Alaska and in the office of the secretary of the State or Territory wherein such company is organized: *Provided*, That all lawful claims of laborers, contractors, subcontractors, or material men, for labor performed or material furnished in the construction of the railroad, tramway, or wagon road shall be a first lien thereon and take precedence of any mortgage or other lien.

SEC. 7. That this act shall not apply to any lands within the limits of any military, park, Indian, or other reservation unless such right of way shall be provided for by act of Congress.

SEC. 8. That Congress hereby reserves the right at any time to alter, amend, or repeal this act or any part thereof; and the right of way herein and hereby authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: *Provided*, That where, within ninety days after the approval of this act, proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road, or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road, or tramway prior to January twenty-first, eighteen hundred and ninety-eight, the rights to inure hereunder shall,

if the terms of this act are complied with as to such railroad, wagon road, or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right of way or other privilege of this act the person, company, or corporation having been first in time in actual survey or construction, as the case may be, shall be deemed first in right.

SEC. 9. That the map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map.

7. The grant made by these sections does not convey an estate in fee in the lands used for right of way or lands used for station and terminal facilities. The grant is merely of a right of use for the necessary and legitimate purposes of the roads, the fee remaining in the United States, except as to lands authorized to be sold under section 6 by the Secretary of the Interior "upon such expressed conditions as in his judgment may be necessary to protect the public interests." The nature of these conditions will depend upon the public necessities and will be governed by the particular circumstances of each case.

8. All persons entering public lands to part of which a right of way has attached take the same subject to such right of way, the latter being computed as a part of the area of the tract entered.

9. Whenever any right of way shall pass over private land or possessory claims on lands of the United States, condemnation of the right of way across the same may be made in accordance with the provisions of section 4.

INCORPORATED COMPANIES.

10. Any incorporated company desiring to obtain the benefits of these sections is required to file the following papers and maps:

First. A copy of its articles of incorporation duly certified to by the proper officer of the company under its corporate seal, or by the secretary of the State or Territory where organized.

Second. A copy of the State or Territorial law under which the company was organized, with the certificate of the governor or secretary of the State or Territory that the same is the existing law.

Third. When said law directs that the articles of association or other papers connected with the organization be filed with any State or Territorial officer, the certificate of such officer that the same have been filed according to law, with the date of the filing thereof.

No forms are prescribed for the above portion of the proofs required, as each case must be governed to some extent by the laws of the State or Territory.

Fourth. The official statement, under seal of the proper officer, that the organization has been completed; that the company is fully authorized to proceed with the construction of the road according to the existing law of the State or Territory where organized. (Form 1, p. 302.)

Fifth. An affidavit by the president, under the seal of the company, showing the names and designations of its officers at the date of the filing of the proofs. (Form 2, p. 302.)

Sixth. If certified copies of the existing laws regarding such corporations, and of new laws as passed from time to time, be forwarded to this office by the governor or secretary of any State or Territory, a company organized in such State or Territory may file, in lieu of the

requirements of the second subdivision of this paragraph, a certificate of the governor or secretary of the State or Territory that no change has been made since a given date, not later than that of the laws last forwarded.

Seventh. Maps, field notes, and other papers as hereinafter required.

INDIVIDUALS OR ASSOCIATIONS OF INDIVIDUALS.

11. Individuals or associations of individuals making applications for a permit, under section 6, for tramways or wagon roads are required to file evidence of citizenship. In the case of associations an affidavit must be filed by the principal officer thereof, giving a list of the members and stating that the list includes all of the members. Evidence of citizenship must be furnished for each member of the association. Individuals and associations will also be required to file the maps, field notes, and other papers hereinafter required.

12. All maps and plats must be drawn on tracing linen, in duplicate, and must be strictly conformable to the field notes of the survey thereof wherever such surveys have been made. The word "profile" as used in the act is understood to intend a map of alignment. No profile of grades will be required.

13. The maps should show any other road crossed or with which connection is made, and whenever possible the station number on the survey thereof at the point of intersection. All such intersecting roads must be represented in ink of a different color from that used for the line for which the applicant asks right of way. Field notes of the surveys should be written along the line on the map. If the map should be too much crowded to be easily read, then duplicate field notes should be filed separate from the map and in such form that they may be folded for filing. In such case it will be necessary to place on the map only a sufficient number of station numbers to make it convenient to follow the field notes on the map. Station numbers should also be given on the map in all cases where changes of numbering occur and where known lines of survey, public or otherwise, are crossed, with distance to the nearest permanent monument or other mark on such line. The map must show also the lines of reference of initial, terminal, and intermediate points, with their courses and distances.

14. Typewritten field notes, with clear carbon copies, are preferred, as they expedite the examination of applications. All monuments and other marks with which connections are made should be fully described, so that they may be easily found. The field notes must be so complete that the line may be retraced on the ground. On account of the conditions existing in Alaska, surveys based wholly on the magnetic needle will not be accepted. In that case a true meridian should be established, as accurately as possible, at the initial point. It should be permanently marked and fully described. The survey should be based thereon and checked by a meridian similarly fixed at the terminal point and, when the line is a long one, by intermediate meridians at proper intervals. On account of the rapid convergence of the meridians in these latitudes, such intermediate meridians should be established at such intervals as to avoid large discrepancies in bearings. It will probably be found preferable to run by transit deflections from a permanently established line, with frequent and readily recoverable reference lines permanently marked; and in such surveys occasional true bearings should be stated, at least approximately. On all lines of railroad the 10-mile sections should be indicated and numbered, and on

maps of tramways and wagon roads the 5-mile sections shall likewise be indicated and numbered.

15. The maps, field notes, and accompanying papers should be filed in the local land office for the district where the proposed right of way is located.

16. Connections should be made with other surveys, public or private, whenever possible; also with mineral monuments and other known and established marks. When a sufficient number of such points are not available to make such connections at least every 6 miles, the surveyor must make connection with natural objects or permanent monuments.

17. Along the line of survey, at least once in every mile, permanent and easily recoverable monuments or marks must be set and connected therewith, in such positions that the construction of the road will not interfere with them. The locations thereof must be indicated on the maps. All reference points must be fully described in the field notes, so that they may be relocated, and the exact point used for reference indicated.

18. The termini of a line of road should be fixed by reference of course and distance to a permanent monument or other definite mark. The initial point of the survey or station, terminal, and junction grounds should be similarly referred. The maps, field notes, engineer's affidavit, and applicant's certificate (Forms 3 and 4, pp. 302–303) should each show these connections.

19. The engineer's affidavit and applicant's certificate must be written on the map and must both designate by termini (as in the preceding paragraph) and length in miles and decimals the line of route for which right of way application is made (see Forms 3 and 4, pp. 302–303). Station, terminal, or junction grounds must be described by initial point (as in the preceding paragraph) and area in acres (see Forms 7 and 8, p. 304), when they are located on surveyed land, and the smallest legal subdivision in which they are located should be stated. No changes or additions are allowable in the substance of any forms, except when the essential facts differ from those assumed therein. When the applicant is an individual the word "applicant" should be used instead of "company," and such other changes made as are necessary on this account.

20. Where additional width is desired for railroad right of way on account of heavy cuts or fills, the additional right of way desired should be stated, the reason therefor fully shown, the limits of the additional right of way exactly designated, and any other information furnished that may be necessary to enable the Secretary of the Interior to consider the case before giving it his approval.

21. The preliminary map authorized by the proviso of section 4 will not be required to comply so strictly with the foregoing instructions as maps of definite location, but it is to be observed that they must be based upon an actual survey, and that the more fully they comply with these regulations the better they will serve their object, which is to indicate the lands to be crossed by the final line and to preserve the company's prior right until the approval of its maps of definite location. Unless the preliminary map and field notes are such that the line of survey can be retraced from them on the ground they will be valueless for the purpose of preserving the company's rights. The preliminary map and field notes should be in duplicate, and should be filed in the local land office, in order that proper notations may be made on the records as notice to intending settlers and subsequent applicants for the right of way.

22. The scale of maps showing the line of route should be 2,000 feet to an inch. The maps may, however, be drawn to a larger scale when necessary; but the scale must not be so greatly increased as to make the map inconveniently large for handling. In most cases, by furnishing separate field notes, an increase of scale can be avoided. Plats of station, terminal, and junction grounds, etc., should be drawn on a scale of 400 feet to an inch, and must be filed separately from the line of route. Such plats should show enough of the line of route to indicate the position of the tract with reference thereto.

23. Plats of station, terminal, and junction grounds must be prepared in accordance with the directions for maps of lines of route. Whenever they are located on or near navigable waters the shore line must be shown, and also the boundaries of any other railroad grounds or other claims located on or near navigable waters within a distance of 80 rods from any point of the tract applied for.

24. All applications for permits made under section 6 of this act should state whether it is proposed to collect toll on the proposed wagon road or tramway; and, in case of wagon roads, the application must be accompanied by satisfactory evidence, corroborated by affidavit, tending to show that the public convenience requires the construction of the proposed road, and that the expense of making the same available and convenient for public travel will not be less, on an average, than $500 per mile. In all cases, if the proposed line of road shall be located over any road or trail in common use for public travel, a satisfactory statement, corroborated by affidavit, must be submitted with the application, showing that the interests of the public will not be injuriously affected thereby.

25. When maps are filed the local officers will make such pencil notations on their records as will indicate the location of the proposed right of way as nearly as possible. They should note that the application is pending, giving the date of filing and name of applicant. They must also indorse on each map and other paper the date of filing, over their written signature, transmitting them promptly to the General Land Office.

26. Upon the approval of a map of definite location or station plat by the Secretary of the Interior, the duplicate copy will be sent to the local officers, who will make such notations of the approval on their records, in ink, as will indicate the location of the right of way as accurately as possible.

27. When the road is constructed, an affidavit of the engineer and certificate of the applicant (Forms 5 and 6, p. 303) should be filed in the local land office in duplicate, for transmission to the General Land Office. In case of deviations from the map previously approved, whether before or after construction, there must be filed new maps and field notes in full, as herein provided, bearing proper forms, changed to agree with the facts in the case; and the location must be described in the forms as the *amended* survey and the *amended* definite location. In such cases the applicant must file a relinquishment, under seal, of all rights under the former approval as to the portions amended; said relinquishment to take effect when the map of amended definite location is approved by the Secretary of the Interior.

28. Unless the proper evidence of construction is filed within the time prescribed by the act for the construction of each section of the road, appropriate steps will be taken looking to the cancellation of the approval of the right of way and the notations thereof on the records.

CHARGES FOR TRANSPORTATION OF PASSENGERS AND FREIGHT.

29. A printed copy of all charges for the transportation of freight and passengers on right-of-way railroads in Alaska shall be forwarded to the Commissioner of the General Land Office for submission to the Secretary of the Interior for his consideration and approval.

In the case of a wagon road or tramway built under permit issued under section 6 of this act, upon which it is proposed to collect toll, a printed schedule of the rates for freight and passengers should also be filed with the Commissioner of the General Land Office for submission to the Secretary of the Interior for his consideration and approval at least sixty days before the road is to be opened to traffic, in order to allow a sufficient time for consideration, inasmuch as by section 6 it is made a misdemeanor to collect toll without written authority from the Secretary of the Interior. In the case of a wagon road satisfactory evidence, corroborated by affidavit, must be submitted with said schedule, showing that at least an average of $500 per mile has been actually expended in constructing such road. These schedules must be submitted in duplicate, one copy of which, bearing the approval of the Secretary of the Interior, will be returned to the applicant if found satisfactory. Said schedules shall be plainly printed in large type.

Section 10 relates to

ENTRIES FOR TRADE, MANUFACTURE, OR OTHER PRODUCTIVE INDUSTRY, IN THE DISTRICT OF ALASKA,

and provides—

SEC. 10. That any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory now authorized by law to hold lands in the Territories, hereafter in the possession of and occupying public lands in the District of Alaska in good faith for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only, not exceeding eighty acres, of such land for any one person, association, or corporation, at two dollars and fifty cents per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands, and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: *Provided*, That no entry shall be allowed under this act on lands abutting on navigable water of more than eighty rods: *Provided further*, That there shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of this act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings and wharves, with the provision that the public shall have access to and proper use of such wharves and landings at reasonable rates of toll, to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway: *Provided further*, That in case more than one person, association, or corporation shall claim the same tract of land, the person, association, or corporation having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are or may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests: *Provided further*, That all claims substantially square in form and lawfully initiated prior to January twenty-first, eighteen hundred and ninety-eight, by survey or otherwise, under sections twelve and thirteen of the act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, chapter five hundred and sixty-one), may be perfected and patented upon compliance with the provisions of said act, but subject to

the requirements and provisions of this act, except as to area, but in no case shall such entry extend along the water front for more than one hundred and sixty rods: *And provided further*, That the Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or seashore for landing places for canoes and other craft used by such natives: *Provided*, That the Annette, Pribilof Islands, and the islands leased or occupied for the propagation of foxes be excepted from the operation of this act.

That all affidavits, testimony, proofs, and other papers provided for by this act and by said act of March third, eighteen hundred and ninety-one, or by any departmental or Executive regulation thereunder, by depositions or otherwise, under commission from the register and receiver of the land office, which may have been or may hereafter be taken and sworn to anywhere in the United States, before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before the register and receiver of the proper local land office. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim, shall be filed in the office of the surveyor-general of the District of Alaska, and if such survey and plat shall be approved by him, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, the register of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within the District of Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office as aforesaid cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association having or asserting any adverse interest in or claim to the tract of land, or any part thereof, sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within the District of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court.

30. A somewhat similar right of purchase was granted by sections 12 and 13 of the act of March 3, 1891, and the section now under consideration gives recognition to claims lawfully initiated under that act prior to January 21, 1898, and provides for perfecting and patenting them upon compliance with the provisions of that act, but subject to the requirements and provisions of this act, except as to area, and also subject to a limitation of 160 rods in extent along a water front.

31. The provisions of section 10 of this act being largely in conflict with sections 12 and 13 of the act of March 3, 1891, and it being apparent that section 10 of this act was intended to fully cover with new legislation the field theretofore occupied by sections 12 and 13 of the former act, it follows that section 10 of this act must be treated as repealing those sections, subject only to the saving clause respecting claims initiated thereunder before January 21, 1898.

32. Under the law of 1891 the record claim was initiated by an application made to the surveyor-general for a survey of the tract occupied and used. An estimate was prepared by said officer of the cost of such survey, and upon deposit of that amount the survey was ordered to be made by a deputy surveyor, and was required to be approved by the surveyor-general and the Commissioner of the General Land Office before purchase could be allowed. Under the present law, as in the case of mining claims, the claimant, at his own expense, can procure the making of the survey without first making application to the surveyor-general, but the survey when made is to be submitted to and approved by the surveyor-general.

33. The statute does not directly state by whom the survey is to be made, but to insure official responsibility for the work, and the better

to protect the interests of all concerned, the surveys must be made by deputy surveyors, who will be appointed in sufficient number by the surveyor-general on satisfactory showing of their fitness, and who will each be required to enter into a bond in the penal sum of $5,000 for the faithful execution, according to law and instructions, of all surveys made in pursuance of his appointment as deputy surveyor. Upon appointment the deputy must take the oath of office required by section 2223, Revised Statutes.

31. Upon completion of the survey the deputy should certify to the field notes and plat, which must then be filed with the surveyor-general, together with proof, which may consist of affidavits duly corroborated by two witnesses, showing:

First. The actual use and occupancy of the land applied for for the purposes of trade, manufacturing, or other productive industry; that it embraces the applicant's improvements and is needed in the prosecution of the enterprise.

Second. The date when the land was first so occupied.

Third. The character and value of improvements thereon, and the nature of the trade, business, or productive industry conducted thereon.

Fourth. That the tract applied for does not include mineral or coal lands, and is essentially nonmineral in character.

Fifth. That no portion of said land is occupied or reserved for any purpose by the United States, or occupied or claimed by any natives of Alaska, or occupied as a town site or missionary station, or reserved from sale, and that the tract does not include improvements made by or in possession of another person, association, or corporation.

Sixth. If the land abuts on any navigable stream, inlet, gulf, bay, or seashore, that it is not within 80 rods of any tract sold or entered under the provisions of this act. Lands patented or to which a right to patent had fully accrued under the act of March 3, 1891, are not "tracts sold or entered under the provisions of this act" within the meaning of this provision.

In the completion under this act of entries initiated prior to January 21, 1898, under the act of March 3, 1891, this showing will not be required.

The deputy surveyor in certifying each survey abutting upon navigable waters must state the name and location of every claim within 80 rods of the claim surveyed.

Seventh. If the application is made for the benefit of an individual, he must prove his citizenship and age.

Eighth. If the application is made for the benefit of an association, it must so appear, and the citizenship and age of each member thereof be shown.

Ninth. If the application is made for the benefit of a corporation, the incorporation must be established by the certificate of the secretary of the State or Territory or other officer having custody of the record of incorporation, and it must be further shown that such corporation is authorized by the law under which it is incorporated to hold lands in the Territories.

35. All affidavits may be made before the register or receiver of the land office in the district in which the land is situated, or anywhere in the United States before any court judge or other officer authorized by law to administer an oath.

36. If the survey is approved by the surveyor-general, certified copies of the field notes and plat, together with the original proof filed by applicant to establish his claim, must be filed in the local land office

with his application to purchase. Thereupon, at the expense of the claimant (who must furnish the agreement of the publisher to hold the applicant for patent alone responsible for charges of publication), the register of such local land office shall cause notice of the application to purchase to be published for a period of at least sixty days in a paper of established character and general circulation, to be by him designated as being the newspaper published nearest the land. Whether published in a weekly, semiweekly, or daily newspaper, the notice must appear in each and every issue of the paper for a period of sixty days, excluding the day of the first publication in computing the period of sixty days; the applicant must also, during the period of publication, cause a copy of the plat, duly authenticated, together with a copy of the application to purchase, to be posted in a conspicuous place upon the claim for at least sixty days. The register shall cause a copy of the application to purchase to be posted in his office during the period of publication.

37. During the period of posting and publication, or within thirty days thereafter, any person, corporation, or association having or asserting an adverse interest in or claim to the tract of land, or any part thereof, sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim, setting forth the nature and extent thereof; and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within the District of Alaska; in which event no further action will be taken in the local office upon the application to purchase until the final adjudication of the rights of the parties in the court.

38. If at the expiration of the period prescribed therefor no adverse claim is filed and no other sufficient objection appears to the proposed purchase, cash certificate will issue for the land in the name of the applicant upon his furnishing proof of publication and posting of the notice as required and making due payment for the land. This proof shall consist of the affidavit of the publisher or foreman of the newspaper employed that the notice (a copy of which must be attached to the affidavit) was published for the required period in the regular and entire issue of every number of the paper during the period of publication, in the newspaper proper and not in the supplement. Proof of posting on the claim will consist of the affidavits of the applicant and two witnesses, who of their own knowledge know that the plat of survey and application to purchase were posted as required and remained so posted during the required period. The register should certify to the posting of the notice in a conspicuous place in his office during the period of publication.

39. A failure to make due payment for the land for a period of three months after the final adjudication of the rights of the parties by the court or after the period for filing an adverse claim shall have expired, without any such claim being filed, will be deemed an abandonment of the application to purchase.

40. Upon a proper showing, duly corroborated, that any claim does not conform to the requirement of the law, a hearing will be ordered in the premises.

41. A roadway 60 feet in width, parallel to the shore line as near as may be practicable, is reserved for the use of the public as a highway. "Shore line" here means high-water line. This reservation occurs in the proviso relating to the reservation between claims abutting on navigable waters; but since it is its purpose to reserve a roadway for public

use as a highway along the shore line of navigable waters, it is held to relate to the lands entered or purchased under this act, as well as to the reserved lands; otherwise it would serve little or no purpose. This reservation will not, however, prevent the location and survey of a claim up to the shore line, for in such case the claim will be subject to this servitude and the area in the highway will be computed as a part of the area entered and purchased.

42. It is not deemed advisable at this time to prescribe any fixed form of application for the use of any of the reserved lands between claims entered or purchased under this act, excepting that—

(1) The citizenship of the applicants or association of applicants must be shown, and in the case of a corporation the same showing must be made as is required by paragraph under section 2, granting right of way for railroads.

(2) The location of the landings or wharves must be accurately described on a map or diagram with reference to claims on either side.

(3) The use of such lands is limited to landings and wharves, and all rates of toll to be paid by the public must be submitted for approval by the Secretary of the Interior.

Section 11 relates to—

THE TIMBER ON PUBLIC LANDS IN THE DISTRICT OF ALASKA,

and provides:

SEC. 11. That the Secretary of the Interior, under such rules and regulations as he may prescribe, may cause to be appraised the timber or any part thereof upon public lands in the District of Alaska, and may from time to time sell so much thereof as he may deem proper for not less than the appraised value thereof, in such quantities to each purchaser as he shall prescribe, to be used in the District of Alaska, but not for export therefrom. And such sales shall at all times be limited to actual necessities for consumption in the district from year to year, and payments for such timber shall be made to the receiver of public moneys of the local land office of the land district in which said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe, and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury. The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber found upon the public lands in said District of Alaska by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, as may actually be needed by such persons for such purposes.

43. While sales of timber are optional, and the Secretary of the Interior may exercise his discretion at all times as to the necessity or advisability of any sale, petitions from responsible persons for the sale of timber in particular localities will be received by this Department for consideration.

Such petition must describe the land upon which the timber stands, as definitely as possible by natural landmarks; the character of the country, whether rough, steep, or mountainous, agricultural or mineral, or valuable chiefly for its forest growth; and state whether or not the removal of the timber would injuriously affect the public interests. If any of the timber is dead, estimate the quantity in feet, board measure, with the value, and state whether killed by fire or other cause. Of the live timber, state the different kinds and estimate the quantity of each kind in trees per acre. Estimate the average diameter of each kind of timber, and estimate the number of trees of each kind per acre above the average diameter. State the number of trees of each kind it is desired to have offered for sale, with an estimate of the number of feet, board measure, therein, and an estimate of the value of the timber as it stands.

44. Before any sale is authorized the timber will be examined and appraised. Notice thereof will be given by publication by the Commissioner of the General Land Office.

45. The time and place of filing bids and other information for a correct understanding of the terms of each sale will be given by published notices or otherwise. Timber is not to be sold for less than the appraised value. The Commissioner of the General Land Office must approve all sales, and he may make allotment of quantity to any bidder or bidders if he deems proper. The right is also reserved to reject any or all bids. A reasonable cash deposit, to accompany each bid, will be required.

46. Within thirty days after notice to a bidder of an award of timber to him payment must be made in full to the receiver for the timber so awarded; or equal payments therefor may be made in thirty, sixty, and ninety days from date of such notice, at the option of the purchaser. The purchaser must have in hand the receipt of the receiver for each payment before he will be allowed to cut, remove, or otherwise dispose of the timber covered by that payment. The timber must all be cut and removed within one year from the date of payment therefor; failing to so do, the purchaser will forfeit his right to the timber left standing or unremoved and to his purchase money: *Provided*, That the limit of one year herein named may be extended by the Commissioner of the General Land Office, in his discretion, upon good and sufficient reasons being shown.

47. Notice must be given by the purchaser to the Commissioner of the General Land Office of the proposed date of cutting and removal of the timber, so that, if practicable, an official may be designated to supervise such cutting and removal. Upon application of purchasers, permits to erect temporary sawmills for the purpose of cutting or manufacturing timber purchased under this act may be granted by the Commissioner of the General Land Office, if not incompatible with the public interests.

48. No timber taken from the public lands and sold as above prescribed may be exported from the District of Alaska.

49. Special instructions will be issued for the guidance of officials designated to examine and appraise timber, to supervise its cutting and removal, and for carrying out other requirements connected therewith.

50. Actual settlers, residents, individual miners, and prospectors for minerals may procure, free of charge, from unoccupied unreserved public lands in Alaska, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, so much timber as may be actually needed by such persons, for individual use, to an extent not exceeding, in stumpage valuation, $100 in any one year. It is not necessary to secure permission from the Department to take timber from public lands as allowed in this paragraph. The exercise of such privilege is, however, subject at all times to supervison by the Department, with a view to restriction or prohibition if deemed necessary. The uses specified in this paragraph constitute the only purposes for which timber may be taken, free of charge, from public lands in Alaska.

51. In cases arising under the preceding paragraph in which the parties needing the timber are not in a position to procure it from the public lands themselves, it is allowable for them to secure the cutting, removing, sawing, or other manufacture of the timber through the medium of others, agreeing with the parties thus acting as their *agents direct* in taking or otherwise handling the timber that they shall be paid a reasonable amount to cover their time and labor expended and

all legitimate expenses incurred in connection therewith *exclusive of any charge for the timber itself.*

52. Section 2461, United States Revised Statutes, is in force in the District of Alaska, and its provisions may be enforced against any person or persons who cut or remove, or cause or procure to be cut or removed, or aid or assist or are employed in cutting or removing, any timber from public lands therein, except as allowed by law.

Section 12 authorizes the establishment of—

LAND DISTRICTS WITHIN THE DISTRICT OF ALASKA,

and provides:

SEC. 12. That the President is authorized and empowered, in his discretion, by Executive order from time to time to establish or discontinue land districts in the District of Alaska, and to define, modify, or change the boundaries thereof, and designate or change the location of any land office therein; and he is also authorized and empowered to appoint, by and with the advice and consent of the Senate, a register for each land district he may establish and a receiver of public moneys therefor; and the register and receiver appointed for such district shall, during their respective terms of office, reside at the place designated for the land office. That the registers and receivers of public moneys in the land districts of Alaska shall each receive an annual salary of one thousand five hundred dollars and the fees provided by law for like officers in the State of Oregon, not to exceed, including such salary and fees, a total annual compensation of three thousand dollars for each of said officers.

Districts have been established with land offices at Sitka, Rampart City, Peavy, and Circle.

Section 13 accords certain—

MINING RIGHTS WITHIN THE DISTRICT OF ALASKA TO NATIVE-BORN CITIZENS OF THE DOMINION OF CANADA,

and provides:

SEC. 13. That native-born citizens of the Dominion of Canada shall be accorded in said District of Alaska the same mining rights and privileges accorded to citizens of the United States in British Columbia and the Northwest Territory by the laws of the Dominion of Canada or the local laws, rules, and regulations; but no greater rights shall be thus accorded than citizens of the United States or persons who have declared their intention to become such may enjoy in said District of Alaska; and the Secretary of the Interior shall from time to time promulgate and enforce rules and regulations to carry this provision into effect.

53. By the laws of the Dominion of Canada citizens of the United States are, with all other persons over 18 years of age, permitted to lease mineral lands in British Columbia and the Northwest Territory upon the payment of a certain royalty to the general government, but the laws of that Dominion do not authorize the purchase of mineral lands in British Columbia or the Northwest Territory.

54. The existing laws of the United States do not make any provision for the leasing of mineral lands in Alaska either to citizens of the United States or to others, but they do provide for and authorize the purchase of such lands in Alaska by our own citizens.

55. Since this section accords to native-born citizens of Canada "the same mining rights and privileges" accorded to citizens of the United States in British Columbia and the Northwest Territory by the laws of the Dominion of Canada, and since under the laws of the Dominion of Canada the only mining rights and privileges accorded to citizens of the United States are those of leasing mineral lands upon the payment of a stated royalty, and since the laws of the United States do not accord to its own citizens the right or privilege of leasing mineral lands

in Alaska, and since this section also provides that "no greater rights shall be thus accorded" to citizens of the Dominion of Canada "than citizens of the United States or persons who have declared their intention to become such may enjoy in such District of Alaska," it results that for the time being this section is inoperative.

The concluding section, 14, refers to matters under the jurisdiction of the Treasury Department, as to which nothing need be said in this connection. It reads as follows:

SEC. 14. That under rules and regulations to be prescribed by the Secretary of the Treasury the privilege of entering goods, wares, and merchandise in bond or of placing them in bonded warehouses at any of the ports in the District of Alaska, and of withdrawing the same for exportation to any place in British Columbia or the Northwest Territory without payment of duty, is hereby granted to the government of the Dominion of Canada and its citizens or citizens of the United States and to persons who have declared their intention to become such whenever and so long as it shall appear to the satisfaction of the President of the United States, who shall ascertain and declare the fact by proclamation, that corresponding privileges have been and are being granted by the government of the Dominion of Canada in respect of goods, wares, and merchandise passing through the territory of the Dominion of Canada to any point in the District of Alaska from any point in said District.

TOWN SITES IN ALASKA.

The act of May 14, 1898, makes no provision for entry of town sites in Alaska, so that so much of the act of March 3, 1891 (26 Stat., 1095; Appendix No. 44, p. 221), as relates to town-site entries remains unaffected by the act of May 14, 1898.

Section 11 of the act of March 3, 1891, provided:

SEC. 11. That until otherwise ordered by Congress lands in Alaska may be entered for town-site purposes, for the several use and benefit of the occupants of such town sites, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, such entries to be made under the provisions of section twenty-three hundred and eighty-seven of the Revised Statutes as near as may be; and when such entries shall have been made the Secretary of the Interior shall provide by regulation for the proper execution of the trust in favor of the inhabitants of the town site, including the survey of the land into lots, according to the spirit and intent of said section twenty-three hundred and eighty-seven of the Revised Statutes, whereby the same results would be reached as though the entry had been made by a county judge, and the disposal of the lots in such town site and the proceeds of the sale thereof had been prescribed by the legislative authority of a State or Territory: *Provided,* That no more than six hundred and forty acres shall be embraced in one town-site entry.

The regulations issued under the act of March 3, 1891, will be found in 12 L. D., 583. The following are taken from those regulations, as amended October 27, 1898 (27 L. D., 560):

All town-site entries in said Territory are to be made by trustees, to be appointed by the Secretary of the Interior, according to the spirit and intent of section 2387, United States Revised Statutes, which section provides that the entries of land for such purposes are to be made in trust for the several use and benefit of the occupants thereof, according to their respective interests, and at the minimum price, which in these cases shall be construed to mean $1.25 per acre. When the inhabitants of a place and their occupations and requirements constitute more than a mere trading post, but are less than one hundred in number, the town-site entry shall be restricted to 160 acres; but where the inhabitants are in number one hundred and less than two hundred, the town-site entry may embrace any area not exceeding 320 acres; and in cases where the inhabitants number more than two hundred, the town-site entry may embrace any area not exceeding 640 acres. It will

be observed that no more than 640 acres shall be embraced in one town-site entry in said Territory.

The system of public surveys not having been extended over any portion of the Territory of Alaska, and no provision being made in said act for the payment of the cost of officially making a special survey of the exterior lines of the town sites to be entered thereunder, it becomes necessary for the occupants of any town site in said Territory, as a prerequisite to having an entry made of the land claimed by them, to secure the special survey of the land, as prescribed for applicants for lands in said Territory for trade and manufacturing purposes.

The fee-simple title to certain real estate in Alaska was conferred under Russian rule upon certain individuals and the Greek Oriental Church, and confirmed by treaty concluded March 30, 1867, between the United States and the Emperor of Russia (15 Stat. L., 539); the act of March 3, 1891 (26 Stat., 1095), in section 14, has expressly excepted from entry for town sites and trading and manufacturing sites all tracts of land in Alaska, not exceeding 640 acres in any one tract, occupied as missionary stations at the date of the passage of same; while other real property is now held and occupied by the United States in several of the Alaska towns for school and other public purposes, and it is perhaps desirable that still other lots or blocks in those towns that take advantage of the provisions of said act should be reserved to meet the future requirements for school purposes or as sites for Government buildings. Therefore, such employee or employees of the Government as shall be designated or detailed for that purpose shall constitute a board whose duty it shall be, as soon as notified by the United States surveyor-general of Alaska that the duplicate receipt for the money deposited to defray the costs of a special survey of the exterior lines of such town sites has been received by him, to go upon the land applied for and to determine and designate what lands should be eliminated from the town-site survey, as above indicated.

Such board shall inquire into the title to the several private claims and church claims held in such town site under Russian conveyances, as originally granted and claimed at the date of the acquisition of Alaska by this Government, and into the claims for land therein, not exceeding 640 acres in one tract, occupied as missionary stations on March 3, 1891, and shall fix and determine the proper metes and bounds of said church, missionary and private claims, after due notice having been given to the present owners of same both of their right to submit testimony and documents, either in person or by attorney, in support of same, and of their right, within thirty days from receipt of notice of the conclusions of said board, to file an appeal therefrom with said board, for transmission to this office. Should any one of such parties be dissatisfied with the decision of this office in such a case, he may still further prosecute an appeal to the Secretary of the Interior upon such terms as shall be prescribed in each individual case. Proper evidence of notice should be taken by said board in all cases, and a record of all testimony submitted to them should be kept. If an appeal is taken, the same, together with the decision of the board and all papers and evidence affecting the claims of the appellant, should be forwarded direct to this office. Should no appeal be taken, the report of the board should be filed with the United States surveyor-general for his use and guidance as hereinafter directed.

It shall also be the official duty of said board to approximately fix and determine the metes and bounds of all lots and blocks in any such town site now occupied by the Government for school or other public

purposes, and of all unclaimed lots or blocks which, in their judgment, should be reserved for school or any other purpose, and to make report of such investigations to the surveyor-general for his use and guidance, as also hereinafter directed, should no appeal be filed therefrom.

Should an appeal from the action or decision of such board be filed in any case, no further action will be taken by the surveyor-general until the matter has been finally decided by this office or the Department. But should no appeal be filed, the surveyor-general will proceed to direct the survey of the outboundaries of the town site to be made, the same in all respects as above directed in the survey of land for trade and manufacturing purposes, except that he will accept the report and recommendations made by said board and exclude and except, by metes and bounds, from the land so surveyed, all the lots and blocks for any purpose recommended to be excepted by said board. The execution of the survey of the lots and blocks thus excepted shall be made a part of the duties of the surveyor who is deputized to survey the exterior lines of the town site; the survey of such lots or blocks shall be connected by course and distance with a corner of the townsite survey, and also fully described in the field notes of said survey and protracted upon the plat of said town site; and the limits of such lots or blocks will be permanently marked upon the ground in such manner as the surveyor-general shall direct. In forwarding the plat and field notes of the survey of any town site for the approval of this office, the surveyor-general will also forward any report that said board may have filed with him for approval in like manner.

When the plat and field notes of the survey of the outboundaries of any town site shall have been approved, the Secretary of the Interior will appoint one trustee to make entry of the tract so surveyed, in trust for the occupants thereof, as provided by said act. The trustee having received his appointment, and qualified himself for duty by taking and subscribing the usual oath of office and executing the bond hereinafter required, will call upon the occupants of said town site for the requisite amount of money necessary to pay the Government for the land as surveyed, and other expenses incident to the entry thereof, keeping an accurate account thereof and giving his receipt therefor. And when realized from assessment and allotment, he will refund the same, taking evidence thereof to be filed with his report in the manner hereinafter directed. He will then file with the proper local land office a written notice, in due form, reciting the name of the party who will make the entry, the name and geographical location of the town site, the place and date of making proof, and the names of four witnesses by whom it is proposed to establish the right of entry. This notice will be published by said commissioner once a week for six consecutive weeks, at the applicant's expense, in a newspaper published in the town for which the entry is to be made, or nearest to the land applied for. Copies of said notice must also be posted in the office of the register and in a conspicuous place upon the land applied for, for thirty days next preceding the date of making proof. The required proof shall consist of the affidavits of the applicant and two of the published witnesses, and shall show (1) the actual occupancy of the land for municipal purposes; (2) the number of inhabitants; (3) the character, extent, and value of town improvements; (4) the nonmineral character of the town site; (5) that said town site does not contain any land occupied by the United States for school or other public purposes, nor any land to which the title in fee was conferred under Russian rule and confirmed by the treaty of transfer to the United States, nor any land for which patents

have been issued by the United States, and (6) proof of the publication and posting of notices for the required time, the same in all respects as is required by the ninth subdivision of paragraph 20 hereof. The proof being accepted and the certificate of entry issued by the register of the land office, the purchase price of the land should be paid to and receipted for by the receiver of the land office, after which all the papers will be forwarded to this office, and, if found to be complete and made in accordance with these instructions, patent will issue without delay. Cash certificate of entry (No. 4–189) will be used by the register in allowing all entries authorized by the law and these regulations, and said entries will be numbered consecutively, beginning with No. 1.

A protest against the allowance of a town-site entry will be heard, and the same permitted to be carried into a contest in the same manner and under the same conditions as provided in the matter of contests before local land officers.

Trustees of the several town sites entered in said Territory shall levy assessments upon the property either occupied or possessed by any native Alaskan the same as if he were a white man, and shall apportion and convey the same to him according to his respective interest, without regard to the question of citizenship. But, in case of white settlers, or associations or corporations, the trustees shall require the same evidence of citizenship or the right to hold real estate, as the case may be, as is required of purchasers of land for purposes of trade or manufactures.

The entry having been made and forwarded to this office, the trustee will cause an actual survey of the lots, blocks, streets, and alleys of the town site to be made, conforming as near as in his judgment it is deemed advisable to the original plan or survey of such town, making triplicate plats of said survey and designating upon each of said plats the lots occupied, together with the value of the same and the name of the owner or owners thereof; and in like manner he will designate thereon the lots occupied by any corporation, religious organization, or private or sectarian school. When the plats are finally completed they will be certified to by him as follows:

I, the undersigned, trustee of the town site of ——, Alaska Territory, hereby certify that I have examined the survey of said town site and approved the foregoing plat thereof as strictly conformable to said survey made in accordance with the act of Congress approved March 3, 1891, and my official instructions.

One of said plats shall be filed in the land office in the district where the town site is located, one in the office of the Commissioner of the General Land Office, and one retained for his own use. The designation of an owner on such plats shall be temporary until final decision of record in relation thereto, and shall in no case be taken or held as in any sense or to any degree a conclusion or judgment by the trustee as to the true ownership in any contested case coming before him.

As soon as said plats are completed, the trustee will then cause to be posted in three conspicuous places in the town a notice to the effect that such survey and platting have been completed, and notifying all persons concerned or interested in such town site that on a designated day he will proceed to set off to the persons entitled to the same, according to their respective interests, the lots, blocks, or grounds to which each occupant thereof shall be entitled under the provisions of said act. Such notices shall be posted at least fifteen days prior to the day set apart by the trustee for making such division and allotment. Proof of such notification shall be evidenced by the affidavit of the trustee, accompanied by a copy of such notice.

After such notice shall have been duly given, the trustee will proceed on the designated day, except in contest cases, which shall be

disposed of in the manner hereinafter provided, to set apart to the persons entitled to receive the same the lots, blocks, and grounds to which each person, company, or association of persons shall be entitled, according to their respective interests, including in the portion or portions set apart to each person, corporation, or association of persons the improvements belonging thereto, and in so doing he will observe and follow as strictly as the platting of the town site will permit the rights of all parties to the property claimed by them as shown and defined by the records of the clerk of the district court of Alaska, who is ex officio recorder of deeds and mortgages and other contracts relating to real estate in said Territory.

After setting apart such lots, blocks, or parcels, and upon a valuation of the same as hereinbefore provided for, the trustee will proceed to determine and assess upon such lots and blocks according to their value, such rate and sum as will be necessary to pay all expenses incident to the town-site entry. In those cases in which there appears more than one claimant for any lot or block, the trustee will require each claimant to pay the assessment, and upon the final determination of the contest, as hereinbefore provided for, the unsuccessful claimant or claimants will be reimbursed in a sum equal to the assessment paid by them, such reimbursements to be properly accounted for by the trustee. In making the assessments the trustee will take into consideration—

First. The reimbursement of the parties who deposited the money to pay the costs of surveying and platting the outboundaries of the town site, and who advanced such money as was necessary in addition to pay the purchase price of the land.

Second. The money expended in advertising and making proof and entry of the town site.

Third. The compensation of himself as trustee.

Fourth. The expenses incident to making the conveyances.

Fifth. All necessary traveling expenses and all other legitimate expenses incident to the expeditious execution of his trust.

More than one assessment may be made, if necessary, to effect the purposes of said act of Congress and these instructions. Upon receipt of the assessments the trustee will issue deeds for the uncontested lots, blank forms of conveyance being furnished by this office for that purpose.

His work having been completed to this point, the trustee will then, and not before, in cases where he finds two or more inhabitants claiming the same lot, block, or parcel of land, proceed to hear and determine the controversy, fixing a time and place for the hearing of the respective claims of the interested parties, giving each ten days' notice thereof, and a fair opportunity to present their interests in accordance with the principles of law and equity applicable to the case, observing as far as practicable the rules prescribed for contests before registers and receivers of the local offices; he will administer oaths to the witnesses, observe the rules of evidence as near as may be in making his investigations, and at the close of the case, or as soon thereafter as his duties will permit, render a decision in writing. If the notice herein provided for can not be personally served upon the party therein named within three days from its date, such service may be made by a printed notice published for ten days in a newspaper in the town in which the lot to be affected thereby is situated; or, if there is none published in such town, then said notice may be printed in any newspaper published in the Territory. Copies of such notice should also be posted upon the lot in controversy and in at least three other conspicuous places in

the town wherein the lot is situated. The proof of such publication and posting of notices, to be filed with the record, may be made as provided in these rules and regulations in other cases. The proceedings in these contests should be abbreviated in time and words, or the work may not be completed within the limit of any reasonable period of time or expense.

Before proceeding to dispose of the contested cases the trustee will require each claimant to deposit with him each morning a sum sufficient to cover and pay all costs and expenses on such proceedings for that day. At the close of the contest, on appeal or otherwise, the sum deposited by the successful party shall be returned to him, but that deposited by the losing party shall be retained and accounted for by said trustee.

Any person feeling aggrieved by the decision of the trustee may, within thirty days after notice thereof, appeal to the Commissioner of the General Land Office, under the rules as provided for appeals from the opinions of registers and receivers, and if either party is dissatisfied with the conclusions of said Commissioner in the case, he may still further prosecute an appeal, within sixty days from notice thereof, to the Secretary of the Interior, upon like terms and conditions and under the same rules that appeals are now regulated by and taken in adversary proceedings from the Commissioner to the Secretary. All costs in such proceedings will be governed by the rules now applicable to contests before the local land offices.

The trustee shall receive and pay out all money provided for in these instructions, subject to the supervision of this office, and he shall keep a correct record of his proceedings and an accurate account of all money received and disbursed by him, taking and filing proper vouchers therefor, in the manner hereinafter provided; and before entering upon duty he shall, in addition to taking the official oath, also enter into a bond to the United States in the penal sum of $5,000, for the faithful discharge of his duties, both as now prescribed and furnished by the Department of the Interior.

All lots remaining unoccupied and unclaimed when the trustee shall have made his allotments and assessments will be sold at public outcry, for cash, to the highest bidder. The proceeds of such sales, together with any balance remaining in the hands of the trustee to the credit of the town-site occupants, to be expended, under the direction of the Secretary of the Interior, for the benefit of the town.

All payments by the occupants of any town site for any of the purposes above named, except the survey of the outboundaries of the land so entered, shall be in cash, and made only to the trustee thereof, who shall make duplicate receipts for all money paid him, one to be given the party making the payment, and the other to be forwarded to this office with the trustee's papers and accounts. Said trustee shall also take receipts for all money disbursed by him, and be held strictly accountable by this office, under his bond, for the proper handling of the trust funds in his possession.

The trustee of any town site in said Territory will be allowed compensation at the rate of $5 per day for each day actually engaged and employed in the performance of his duties as such trustee, and his necessary traveling expenses.

The trustee's duties herein prescribed having been completed, the account of all his expenses and expenditures, together with a record of his proceedings and a list of the lots to be sold at public sale, as hereinbefore provided, with all papers in his possession and all evidence of

his official acts, shall be transmitted to this office to become a part of the records hereof, excepting from such papers, however, the subdivisional plat of the town site, which he shall deliver to the clerk of the district court, to be made of record and placed on file in his office as ex-officio recorder of deeds, mortgages, and other contracts relating to real estate in the Territory of Alaska.

THE BOARD OF EQUITABLE ADJUDICATION.

The board of equitable adjudication is established and its powers defined by sections 2450 to 2457 of the Revised Statutes (Appendix No. 1, pp. 160–161), amended by act of February 27, 1877, substituting the Secretary of the Interior for the Secretary of the Treasury as one of the board. It consists of the Secretary of the Interior, the Attorney-General, and the Commissioner of the General Land Office, and is authorized "to decide upon principles of equity and justice * * * all cases of suspended entries of public lands * * * and to adjudge in what cases patents shall issue upon same." The board has no power to adjudicate adverse claims between contesting parties, but only between the United States and claimants, in cases where the law has been substantially complied with, but where error or informality has arisen from ignorance, accident, or mistake, which is satisfactorily explained.

This board is a tribunal of special and limited jurisdiction, outside of which it has no authority, but inside of which it is exclusive. No appeal lies from its decisions, nor are they subject to review by any other tribunal.

(For the rules and regulations of the board of equitable adjudication, see Appendix No. 85, p. 265.)

CHANGES OF ENTRY.

In order to secure uniformity in proceedings upon applications for change of entry, attention is called to the following sections of the Revised Statutes and accompanying instructions:

SEC. 2369. In every case of a purchaser of public lands, at private sale, having entered at the land office a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land office, and if it appears from testimony satisfactory to the register and receiver that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any other wise arisen from mistake or error of the surveyor, or officers of the land office, the register and receiver shall report the case, with the testimony and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office.

SEC. 2370. The provisions of the preceding section are declared to extend to all cases where patents have been issued, or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land Office, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior.

SEC. 2371. The provisions of the two preceding sections are made applicable in all respects to errors in the location of land warrants.

SEC. 2372. In all cases of an entry hereafter made of a tract of land not intended to be entered, by a mistake of the true numbers of the tract intended to be entered, where the tract thus erroneously entered does not in quantity exceed one-half section, and where the certificate of the original purchaser has not been assigned, or his right in any way transferred, the purchaser, or, in case of his death, the legal representatives, not being assignees or transferees, may, in any case coming within

the provisions of this section, file his own affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be entered, and that every reasonable precaution and exertion has been used to avoid the error with the register and receiver of the land district within which such tract of land is situated, who shall transmit the evidence submitted to them in each case, together with their written opinion, both as to the existence of the mistake and the credibility of each person testifying thereto, to the Commissioner of the General Land Office, who, if he be entirely satisfied that the mistake has been made, and that every reasonable precaution and exertion has been made to avoid it, is authorized to change the entry and transfer the payment from the tract erroneously entered to that intended to be entered, if unsold; but if sold, to any other tract liable to entry; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize such change of entry; nor shall anything herein contained affect the right of third persons.

It will be observed that section 2369 is intended to afford relief to purchasers of public lands at private sale whose errors in entry have been occasioned by the original incorrect marking by the surveyor, or by the subsequent change or obliteration of those marks, or by any other error originating either with the surveyor or the land officers.

Section 2370 extends the foregoing provision to cases where patents have been or may be issued.

Section 2371 extends the provisions of both the preceding sections to errors in the location of land warrants.

Section 2372, further extending these provisions, applies to all classes of entries, and also embraces cases where the error was not occasioned by any act of the surveyor or of the land officers, but restricts changes of entry to cases in which the tract erroneously entered does not in quantity exceed one-half section, and where the certificate of the original purchaser has not been assigned or his right in any way transferred.

Change of entry may therefore be allowed, in accordance with these provisions, in respect to either of the following classes of cases, viz:

Purchases at public sale.

Private entries.

Preemption entries.

Military bounty land warrant locations.

Scrip locations, etc.

A change of entry, when allowed, will be made from the tract erroneously entered to that intended to have been entered, if vacant; but if not vacant, the change may be made to any other tract liable to entry.

APPLICATION FOR CHANGE OF ENTRY.

The application must, in all cases, be made by the party making the original entry, or, in case of his death, by his legal representatives, not being assignees or transferees.

The applicant must file an affidavit showing the nature and particular cause of the error, and that every reasonable and proper precaution had been used to avoid it, accompanied by the best corroborative testimony that can be procured. The oath of the party interested is not of itself sufficient.

The affidavit must also show that the land erroneously entered has not been transferred or otherwise encumbered.

This evidence, together with the joint opinion of the register and receiver as to the existence of the mistake, and the credibility of each person testifying thereto, will be forwarded for the decision of this office.

Where a patent has not been issued they will require the surrender of the duplicate receipt, or certificate of location (as the case may be),

accompanied by the affidavit of the party that he has not sold, assigned, nor in any way encumbered the title to the land described in the application, and that said title has not become a matter of record.

Where a patent has issued it must be surrendered.

Where the title has become a matter of record, and in all cases where patent has issued, they will require a quitclaim deed, or release, to the United States, which deed must be executed, acknowledged, and recorded in accordance with the laws of the State or Territory in which the land is situated. They will also require a certificate from the county clerk, or other officer having charge of the books in which any conveyance of the land is required to be recorded to give it validity, stating that the records of such office do not exhibit any conveyance or other incumbrance of the land in question. In the case of a married man, a properly executed release of dower by the wife must be furnished, if a right of dower exists under the local law.

WHEN CHANGE OF ENTRY IS ALLOWED.

In all cases of application for a change of entry, when the evidence is satisfactory, a new register's certificate will be authorized by this office, which certificate will bear the current number and date, and will be indorsed with the authority for such change.

The tract to which the change is allowed, its area, etc., will be reported on the proper monthly abstracts, with a noting in red ink of the items credited from the old certificate and not included in the footings.

Any excess over an original amount will be accounted for as in case of the other excesses.

For instructions as to amendments of applications and entries see page 90.

FURNISHING CERTIFIED COPIES.

Annexed are the laws (Revised Statutes of the United States) relative to the powers and duties of the General Land Office in furnishing exemplifications of patents, papers, or plats on file or of record therein; of the legal force and effect of such certified copies, and the terms upon which the same can be procured. (Secs. 461, 891, 2469, 2470, Rev. Stat.; Appendix No. 1, pp. 143, 144, and 162.)

With a view to give proper effect to said statutes, the following requirements are prescribed by direction of the Secretary of the Interior:

First. All copies which may be required by parties interested will be furnished when the cost thereof shall first have been paid to the General Land Office.

Second. The applicant must address a communication to the Commissioner of the General Land Office designating the tract or tracts in regard to which the verified transcripts are wanted, describing as accurately as possible the record, papers, or plats of which said transcripts are desired, and sending a sum of money quite sufficient to cover the cost according to the extent of the copying required; and should the sum sent to this office be in excess of the actual legal cost, such excess will be returned to the applicant.

The following is the tariff established under the statute, section 461, for furnishing transcripts, to wit:

1. Fifteen cents for every hundred words in a transcript.
2. Two dollars for copy of township plat or diagram.

3. One dollar for the Commissioner's certificate of verification and official seal.

Third. Upon the receipt at the General Land Office of the application particularly describing the record or paper of which transcripts are required, accompanied by the requisite amount to cover the expense, the same will be duly acknowledged and the exemplifications promptly transmitted.

In computing the cost of such exemplified copies, the following rules will be observed, viz:

The sum of 15 cents per hundred will be charged for all words in the copies furnished, whether *written or printed.*

Each compound or hyphenated word will be counted as one word.

Each name or initial letter representing a name of a person, place, or thing will be counted as one word. Ditto marks (") will each count as one word.

Figures will be considered as they would appear when properly represented as *written* words, and counted accordingly.

No charge will be made for quotation marks, asterisks, signs of degrees or minutes, or other arbitrary signs or marks employed in written or printed matter.

Regarding initials, it will be observed that SE. for southeast, NW. for northwest, and similar combinations standing for compound words should be counted as one word only.

Photolithographic township plats and maps of the States and Territories remaining on hand in this office may be sold to citizens of the United States—certified copies at 50 cents per copy; uncertified copies at 25 cents per copy—under act of Congress approved October 12, 1888. (25 Stats. L., 557.)

Photolithographic copies of official township plats of surveys are on file in this office for townships in Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Washington, and Wisconsin, which will be supplied to applicants upon payment of the legal fee, viz, 25 cents each for uncertified copies or 50 cents each for certified copies.

DUTIES OF REGISTERS AND RECEIVERS.

The duties of registers and receivers in many cases connected with the administration of the laws regarding public lands have already been incidentally set forth.

In addition thereto they will observe the following:

REGULAR ATTENDANCE AT OFFICE.

They will be in attendance regularly at their offices, keeping the same open for transaction of business from 9 o'clock a. m. till 4 o'clock p. m., and giving all proper information and facilities to persons applying therefor, without charge, except as provided by law.

ENTRY APPLICATIONS.

Applications to make entry can not be received by the register or receiver out of office hours, nor elsewhere than at their office, nor can affidavits or proofs be taken by either of them except in the regular and public discharge of their ordinary duties.

Registers and receivers must note upon the paper itself, in case of every filing, declaration, or application (where the same is not executed before them and presented by the applicant in person), the name of the party by whom the same was presented or transmitted. (Circular approved October 25, 1886, 5 L. D., 198.)

NOTICES.

All notices given by registers and receivers of hearings, decisions, or other action, whether of their offices or of this office, involving the right of appeal by any party or the exercise of other rights within a certain time, or compliance with some official requirement, must be served personally or by registered letter.

When personal service is had the register and receiver will transmit to this office the acknowledgment of such service or evidence thereof.

When service is made by registered letter the return letter receipt, or returned letter, as the case may be, must, in every instance, be sent up with the papers in the case.

The costs of registration will be paid out of the advances from the proper appropriations, and estimates therefor will be embraced in the usual requisitions. (Circular approved October 28, 1886, 5 L. D., 204.)

SPECIAL REPORTS.

The habitual failure of local officers to promptly notify this office when appeals are not taken from decisions or action of this office, or where parties do not comply with requirements made, or where they take no action under notices directed to be given, involves great embarrassment and delay, and causes unnecessary correspondence to obtain the information which the register and receiver are expected and required to furnish without special calls therefor.

In order to obviate these difficulties it is directed:

First. That in each local land office at least two current dockets must be kept.

1. A docket of contested cases in which every case of individual contest shall be entered when initiated, and thereafter a memorandum of every order made or action taken in such case, either by the local office or by this office or by the Secretary of the Interior, shall also be entered as soon as any action is had or notice thereof received.

2. A docket in which shall be entered every entry of any character which is held for cancellation, or in which further evidence is called for, or other requirements made involving the right of appeal or other action by the party, and reports thereon by the local officers. In each case memoranda shall at once be entered on the docket of all holdings, calls, or other action by this office, stating the nature thereof, the time allowed for appeal, reply, or other proceeding, the date and initial of Commissioner's letter, and the date of notice and evidence of service of notice, together with any other memoranda deemed necessary.

Second. The date when the period allowed for appeal, reply, or other action by the party will expire, and a report to the General Land Office by the local officers become due, must in every instance be distinctly noted on the dockets at the time notice is given to the party.

Third. Upon every Saturday the dockets must be carefully examined, and reports to this office made in all cases where time for report has arrived. (Circular approved December 18, 1885, 6 L. D., 12.)

COMMISSIONS, FEES, AND SALARY.

They are prohibited from making any charges for their services other than such as are provided by law. (Secs. 2238, 2239, and 2246, Rev. Stat., Appendix No. 1, pp. 144–146; act May 14, 1880, 21 Stat. L., 140, Appendix No. 15, p. 174; act March 3, 1883, 22 Stat. L., 484, Appendix No. 25, p. 181; act July 4, 1884, 23 Stat. L., 96, Appendix No. 27, p. 183; act August 4, 1886, and act March 3, 1887, 24 Stat. L., 239, idem 526, Appendix No. 29, p. 183.)

Receivers will deposit to the credit of the Treasurer of the United States all moneys received for reducing testimony to writing, and all other fees which, by the act of March 3, 1883, were authorized to be retained by registers and receivers (except the amount payable for clerk hire, in accordance with the terms of the law), as other public moneys of the United States received from fees and commissions are deposited.

All such fees will be reported in detail on the receiver's monthly detailed account current thereof (Form 4–146), and accounted for in their monthly and quarterly accounts. *But fees not earned, that is, deposits made for services to be rendered, are not to be deposited or accounted for until they become public moneys of the United States.*

The fee of $1, authorized to be retained by the register for giving notice of the cancellation of an entry, as provided by the act of May 14, 1880, will be paid to the receiver, who will deposit it with the other fees, when the entry is canceled and the notice given. Should the cancellation not take place and no notice be given the fee is to be returned to the depositor.

In computing the fees for reducing testimony to writing the words actually written by registers and receivers, or persons in their employ, only must be charged for at the rates allowed by paragraphs 10, 11, and 12 of section 2238, Revised Statutes, and no charge is to be made for the printed words. The words actually written must be counted and charged for, and there can be no uniform fee of a specified sum applicable to every case of the same class of entries; that is, registers and receivers can not fix the fee at $1 or more for each preemption, final homestead, or mineral entry.

Under the second section of the act of March 3, 1883, authorizing a charge to be made for plats or diagrams, the fees for the same are fixed as follows:

For a township diagram showing entries only	$1.00
For a township plat showing entries, names of claimants, and character of entry	2.00
For a township plat showing entries, names of claimants, character of entry, and number	3.00
For a township plat showing entries, names of claimants, character of entry, number and date of filing or entry, together with topography, etc	4.00

There is no legal authority for registers and receivers to charge or receive a fee of 25 cents for plats or diagrams of a section or a part of a section of a township.

In all cases where the final proofs in homestead and timber-culture entries are taken by other officers—by United States commissioners, judges, or clerks of courts—the registers and receivers will, under act of March 3, 1877 (Appendix No. 5, p. 165), and act of March 3, 1891 (Appendix No. 44, p. 221), be allowed the same fees for examining and approving the testimony as would be charged if the testimony were taken by themselves under the tenth and twelfth subdivisions of section 2238, Revised Statutes.

The first section of the act of March 3, 1891 (Appendix No. 44, p. 221),

in providing for the commutation of timber-culture entries uses the following words, viz: "Registers and receivers shall be allowed the same fees and compensation for final proofs in timber-culture entries as is now allowed by law in homestead entries."

This provision appears to be, first, a legislative construction of the previously existing law as allowing the same fees and compensation for services rendered by registers and receivers in final proofs in homestead entries, for reducing the testimony to writing, if made before them, or examining and approving the same, if made before some other officer, under the tenth and twelfth subdivisions of section 2238, Revised Statutes, and act of March 3, 1877 (19 Stat. L., 403), without regard to whether such proofs are made after the expiration of the five-year period of residence and cultivation, or at an earlier date, in commutation cases; and second, an enactment that the fees and compensation indicated shall also be allowed for such services when rendered in connection with timber-culture entries, whether after the expiration of the full statutory period or at an earlier date, in commutation cases, thus equalizing the fees and compensation in all cases of the classes mentioned.

The attention of registers and receivers is called to section 2242, Revised Statutes (Appendix No. 1, p. 146), as follows:

> No register or receiver shall receive any compensation out of the Treasury for past services who has charged or received illegal fees; and on satisfactory proof that either of such officers has charged or received fees or other rewards not authorized by law, he shall be forthwith removed from office.

This statute will be strictly enforced.

Registers of land offices have no right officially to receive any moneys whatever except such as are paid to them by receivers as salary, fees, and commissions. Should any money be forwarded to the register or paid to him, he will at once pay over the same to the receiver; and where parties address the register as to the cost of any service required, he will refer the matter to the receiver for answer, as the latter is the proper officer to receive all public moneys.

All fees collected by registers and receivers, from any source whatever, which would increase their salaries beyond $3,000 each a year, shall be covered into the Treasury, except only so much as may be necessary to pay actual cost of clerical services employed exclusively in contested cases, and they shall report quarterly under oath, of all expenditures for such clerical services, with vouchers therefor. (Act August 4, 1886, 24 Stat. L., 239, Appendix No. 29, p. 183; repeated in act March 3, 1887, 24 Stat. L., 526.)

MONTHLY REPORTS.

Within three days from the close of each month the register and receiver must make out and transmit to the General Land Office a statement of the business of their respective offices for the preceding month.

These reports are in the form of abstracts of preemption declarations and of soldiers' declarations filed, abstracts of lands sold, abstracts of homesteads entered, abstracts of timber-culture entries allowed, abstracts of military bounty-land warrants and of agricultural college scrip located, accompanied by the certificates of purchase, receivers' receipts, homestead and timber-culture applications and affidavits, military bounty-land warrants and agricultural college scrip surrendered as satisfied, and the certificates of location thereof; also of all other forms of entry or location requiring separate returns. Names of parties

must be clearly and legibly written in these papers to correspond with the signature to every application; and when spelled in two or more ways, or illegibly written by the person signing, the register must ascertain by proper inquiry the correct orthography and certify to the same upon the margin of the certificate.

The abstracts, after being carefully examined by the register and receiver, are to be certified by them as correct and as in conformity with the papers in the entries or locations embraced therein and with their records, which papers, abstracts, and records must agree with each other.

MONTHLY AND QUARTERLY STATEMENT OF ACCOUNTS.

The receiver is required to render promptly, to the Commissioner of the General Land Office and to the Secretary of the Treasury, a monthly account of all moneys received, showing the balance due the Government at the close of each month; and at the end of every quarter he must also transmit a quarterly account. (Sec. 2245, Rev. Stat.; Appendix No. 1, p. 146.)

He is required to deposit the moneys received by him at some depository designated by the Secretary of the Treasury, when the amount on hand shall have reached the sum of $1,000; and in no case is he authorized, without special instructions, to hold a larger amount in his hands.

Laws and instructions relating to mining claims, bounty lands, railroad adjustments, town sites, timber depredations, and other special matters form the subject of separate circulars.

BINGER HERMANN,
Commissioner of the General Land Office.

Approved July 11, 1899.

E. A. HITCHCOCK, *Secretary.*

APPENDIX.

[No. 1.]

REVISED STATUTES OF THE UNITED STATES.

THE SECRETARY OF THE INTERIOR.

* * * * * * *

SEC. 441. The Secretary of the Interior is charged with the supervision of public business relating to the following subjects:

Duties of Secretary.
3 Mar., 1849, c. 108, ss. 3, 5, 6, 7, 8, 9, v. 9, p. 395.
8 July, 1870, c. 230, s. 1, v. 16, p. 198.
5 Feb., 1859, c. 22, s. 1, v. 11, p. 379.
20 July, 1868, c. 176, s. 1, v. 15, pp. 92, 106.
Maguire *v.* Tyler, 1 Bl., 195.

First. The Census; when directed by law.
Second. The public lands, including mines.
Third. The Indians.
Fourth. Pensions and bounty lands.
Fifth. Patents for inventions.
Sixth. The custody and distribution of publications.
Seventh. Education.
Eighth. Government Hospital for the Insane.
Ninth. Columbia Asylum for the Deaf and Dumb.

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COMMISSIONER OF THE GENERAL LAND OFFICE.

SEC. 453. The Commissioner of the General Land Office shall perform, under the direction of the Secretary of the Interior, all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise respecting such public lands, and, also, such as relate to private claims of land, and the issuing of patents for all agents [grants] of land under the authority of the Government.

Duties of Commissioner.
25 Apr., 1812, c. 68, s. 1 v. 2, p. 716.
4 July, 1836, c. 352, s. 1, v. 5, p. 107.

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EXEMPLIFICATIONS OF PATENTS, RECORDS, BOOKS, OR PAPERS.

SEC. 461. All exemplifications of patents, or papers on file or of record in the General Land Office, which may be required by parties interested, shall be furnished by the Commissioner upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies of township plats or diagrams, with an additional sum of one dollar for the Commissioner's certificate of verification with the General Land Office seal; and one of the employés of the Office shall be designated by the Commissioner as the receiving clerk, and the amounts so received shall, under the direction of the Commissioner, be paid into the Treasury; but fees shall not be demanded for such authenticated copies as may be required by the officers of any branch of the

Government, nor for such unverified copies as the Commissioner in his discretion may deem proper to furnish. (See secs. 891, 2469, and 2470.)

* * * * * * *

SEC. 891. Copies of any records, books, or papers in the General Land Office, authenticated by the seal and certified by the Commissioner thereof, or, when his office is vacant, by the principal clerk, shall be evidence equally with the originals thereof. And literal exemplifications of any such records shall be held, when so introduced in evidence, to be of the same validity as if the names of the officers signing and countersigning the same had been fully inserted in such record. (See secs. 461, 2469, and 2470.)

REGISTERS AND RECEIVERS.

Appointment of registers and receivers.
See all acts establishing land districts.

SEC. 2234. There shall be appointed by the President, by and with the advice and consent of the Senate, a register of the land office and a receiver of public moneys, for each land district established by law.

Residence of register and receiver.
See all acts establishing land districts.

SEC. 2235. Every register and receiver shall reside at the place where the land office for which he is appointed is directed by law to be kept.

Bond of register and receiver.
10 May, 1800, c. 55, ss. 1, 6, v. 2, pp. 73, 75. 3 Mar., 1853, c. 145, s. 5, v. 10, p. 245.

SEC. 2236. Every register and receiver shall, before entering on the duties of his office, give bond in the penal sum of ten thousand dollars, with approved security, for the faithful discharge of his trust.

Salaries of register and receiver.
30 May, 1862, c. 86, s. 6, v. 12, p. 409. 20 Apr., 1818, c. 123, v. 3, p. 466.

SEC. 2237. Every register and receiver shall be allowed an annual salary of five hundred dollars.

Fees and commissions of register and receiver.
4 Sept., 1841, c. 16, s. 12, v. 5, p. 456. 21 Mar., 1864; c. 38, s. 4, v. 13, p. 35.

SEC. 2238. Registers and receivers, in addition to their salaries, shall be allowed each the following fees and commissions, namely:

First. A fee of one dollar for each declaratory statement filed, and for services in acting on pre-emption claims.

20 Apr. 1818, c. 123, v. 3, p. 466.

Second. A commission of one per centum on all moneys received at each receiver's office.[1]

21 Mar. 1864, c. 38, s. 2, v. 13, p. 35. 20 May, 1862, c. 75, s. 6, v. 12, p. 393, 15 July 1870, c. 294; s. 25, v. 16, p 320.

Third. A commission to be paid by the homestead applicant, at the time of entry, of one per centum on the cash price, as fixed by law, of the land applied for; and a like commission when the claim is finally established, and the certificate therefor issued as the basis of a patent.

3 Mar. 1873, c. 277, s. 6, v. 17, p. 606.

Fourth. The same commission on lands entered under any law to encourage the growth of timber on western prairies, as allowed when the like quantity of land is entered with money.[2]

22 Mar. 1852, c. 19, s. 2, v. 10, p. 4. 2 July, 1862, c. 130, s. 7, v. 12, p. 505.

Fifth. For locating military bounty-land warrants issued since the eleventh day of February, eighteen hundred and forty-seven, and for locating agricultural college land scrip, the same commission to be paid by the holder or assignee of each warrant or scrip, as is allowed for sales of the public lands for cash, at the rate of one dollar and twenty-five cents per acre.

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[1] This clause is construed to refer only to receipts from cash sales. It does not apply to fees and commissions. (Circular January 23, 1880.)

[2] The clause was superseded by act of March 13, 1874 (18 Stat., 21), which was in turn superseded by act of June 14, 1878 (20 Stat., 113; Appendix No. 8), as interpreted by the decision of the First Comptroller (Copp's Land Owner, vol. ix, p. 240).

Sixth. A fee, in donation cases, of two dollars and fifty cents for each final certificate for one hundred and sixty acres of land; five dollars for three hundred and twenty acres; and seven dollars and fifty cents for six hundred and forty acres. 30 May, 1862, c. 86, s. 6, v. 12, p. 409. Dec. 17, 1880, c. 2, v. 21, p. 311.

Seventh. In the location of lands by States and corporations under grants from Congress for railroads and other purposes, (except for agricultural colleges), a fee of one dollar for each final location of one hundred and sixty acres; to be paid by the State or corporation making such location. 1 July, 1864, c. 196, s. 1, v. 13, p. 335.

Eighth. A fee of five dollars per diem for superintending public-land sales at their respective offices; [and to each receiver, mileage in going to and returning from depositing the public moneys received by him [1]]. 24 Apr., 1820, c. 51, s. 5, v. 3, p. 567.

Ninth. A fee of five dollars for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties. 10 May, 1872, c. 152, s. 12, v. 17, p. 95.

Tenth. Registers and receivers are allowed, jointly, at the rate of fifteen cents per hundred words for testimony reduced by them to writing for claimants, in establishing preemption and homestead rights. 21 Mar., 1864, c. 38, s. 4, v. 13, p. 35.

Eleventh. A like fee as provided in the preceding subdivision when such writing is done in the land office, in establishing claims for mineral lands. 10 May, 1872, c. 152, s. 12, v. 17, p. 95.

Twelfth. Registers and receivers in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana, are each entitled to collect and receive fifty per centum on the fees and commissions provided for in the first, third, and tenth subdivisions of this section. 21 Mar., 1864, c. 38, s. 6, v. 13, p. 36, and several acts establishing land offices for Utah, Wyoming, and Montana.

SEC. 2239. The register for any consolidated land district, in addition to the fees now allowed by law, shall be entitled to charge and receive for making transcripts for individuals, or furnishing any other record information respecting public lands or land titles in his consolidated land district, such fees as are properly authorized by the tariff existing in the local courts of his district; and the receiver shall receive his equal share of such fees, and it shall be his duty to aid the register in the preparation of the transcripts, or giving the desired record information. Fees of register and receiver for consolidated land offices. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.

SEC. 2240. The compensation of registers and receivers, including salary, fees, and commissions, shall in no case exceed in the aggregate three thousand dollars a year each; and no register or receiver shall receive for any one quarter or fractional quarter more than a pro rata allowance of such maximum.[2] Maximum of compensation for registers and receivers. 21 Mar., 1864, c. 33, s. 6, v. 13, p. 36. 20 Apr., 1818, c. 123, v. 3, p. 466. 20 May, 1862, c. 75, s. 6, v. 12, p. 393. 30 May, 1862, c. 86, s. 6, v. 12, p. 409. 1 July, 1864, c. 196, s. 1, v. 13, p. 335. 22 Mar., 1852, c. 19, s. 3, v. 10, p. 4. 2 July, 1862, c. 130, s. 7, v. 12, p. 505. 2 Feb., 1859, c. 19, v. 11, p. 378. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.—*U. S. v. Babbit*, 1 Bl., 55.

SEC. 2241. Whenever the amount of compensation received at any land office exceeds the maximum allowed by law to any register or receiver, the excess shall be paid into the Treasury, as other public moneys. Excess of compensation to be paid into Treasury. 3 Mar., 1853, c. 97, s. 1, v. 10, p. 204. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.

[1] Part in brackets repealed. Actual expenses only allowed. Act June 16, 1874 (18 Stat., 72).

[2] See notes at foot of the preceding page.

Illegal fees: Penalty.
22 Mar., 1852, c. 19, s. 3, v. 10, p. 4. 17 July, 1854, c. 84, s. 6, v. 10, p. 306.

SEC. 2242. No register or receiver shall receive any compensation out of the Treasury for past services who has charged or received illegal fees; and, on satisfactory proof that either of such officers has charged or received fees or other rewards not authorized by law, he shall be forthwith removed from office.

Compensation of registers and receivers, when to commence.
24 Feb., 1855, c. 124, s. 3, v. 10, p. 615.

SEC. 2243. The compensation of registers and receivers, both for salary and commissions, shall commence and be calculated from the time they, respectively, enter on the discharge of their duties.

Duration of office of registers and receivers.
15 May, 1820, c. 102, s. 1, v. 3, p. 582.

SEC. 2244. All registers and receivers shall be appointed for the term of four years, but shall be removable at pleasure.

Monthly and quarterly returns of receivers.
4 July, 1836, c. 352, s. 9, v. 5, p. 111.

SEC. 2245. The receivers shall make to the Secretary of the Treasury monthly returns of the moneys received in their several offices, and pay over such money pursuant to his instructions. And they shall also make to the Commissioner of the General Land Office like monthly returns, and transmit to him quarterly accounts current of the debits and credits of their several offices with the United States.

Oath administered by registers and receivers.
12 June, 1840, c. 35, v. 5, p. 384.

SEC. 2246. The register or receiver is authorized, and it shall be their duty, to administer any oath required by law or the instructions of the General Land Office, in connection with the entry or purchase of any tract of the public lands, but he shall not charge or receive, directly or indirectly, any compensation for administering such oath.

Penalty for false information by register.
4 July, 1836, c. 352, s. 13, v. 5, p. 112.

SEC. 2247. If any person applies to any register to enter any land whatever, and the register knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such register shall be liable therefor to the person so applying, for $5 for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount.

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PREEMPTIONS.

[Chapter four, title thirty-two, of the Revised Statutes, embracing sections from 2257 to 2288, inclusive, was repealed by the fourth section, act of March 3, 1891 (page 221), except sections 2275, 2276, 2286, and 2288, the last being amended by the third section of the same act, and the first two by the act of February 28, 1891.]

Lands subject to preemption.
2 June, 1862, c. 94, s. 1, v. 12, p. 413.

SEC. 2257. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of preemption, under the conditions, restrictions, and stipulations provided by law.

Lands not subject to preemption.
4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

SEC. 2258. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of preemption, to wit:

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Wilcox *v.* Jackson, 13 Pet., 498; Josephs *v.* U. S., 1 N. and H., 197; Turner *v.* American Baptist Union, 5 McLean, 344; U. S. *v.* Railroad Bridge Co., 6 McLean, 517; Russell *v.* Beebe, Hemps., 704.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

Persons entitled to preemption. 4 Sept., 1841, c. 16, s. 10, v. 5, p. 455. U. S. *v.* Fitzgerald, 15 Pet., 407; Lytle *v.* Arkansas, 9 How., 333; Cunningham *v.* Ashley, 14 How., 377; Barnard's Heirs *v.* Ashley's Heirs, 18 How., 41; Garland *v.* Wynn, 20 How., 6; Harkness *v.* Underhill, 1 Bl., 325; Witherspoon *v.* Duncan, 4 Wall., 218.

SEC. 2259. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to preemption, and who inhabits and improves the same, and who has erected or shall erect a dwelling thereon, is authorized to enter with the register of the land office for the district in which such land lies, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land.

Persons not entitled to preemption. 4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

SEC. 2260. The following clasess of persons, unless otherwise specially provided for by law, shall not acquire any right of preemption under the provisions of the preceding sections, to wit:

First. No person who is the proprietor of three hundred and twenty acres of land in any State or Territory.

Second. No person who quits or abandons his residence on his own land to reside on the public land in the same State or Territory.

Limitation of preemption right. 4 Sept., 1841, c. 16, s. 10, v. 5, p. 455. 3 March, 1843, c. 86, s. 4, v. 5, p. 620.

SEC. 2261. No person shall be entitled to more than one preemptive right by virtue of the provisions of section twenty-two hundred and fifty-nine; nor where a party has filed his declaration of intention to claim the benefits of such provisions, for one tract of land, shall he file, at any future time, a second declaration for another tract.

Oath of preemptionist; where filed; penalty. 4 Sept., 1841, c. 16, s. 13, v. 5, p. 456.

SEC. 2262. Before any person claiming the benefit of this chapter is allowed to enter lands, he shall make oath before the receiver or register[1] of the land district in which the land is situated that he has never had the benefit of any right of preemption under section twenty-two hundred and fifty-nine; that he is not the owner of three hundred and twenty acres of land in any State or Territory; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person whatever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; and if any person taking such oath swears falsely in the premises, he shall forfeit the money which he may have paid for such land, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, for a valuable consideration, shall be null and void, except as provided in section twenty-two hundred and eighty-eight. And it shall be the duty of the officer administering such oath to file a certificate thereof in the public land office of such district, and to transmit a duplicate copy to the General Land Office, either of which shall be good and sufficient evidence that such oath was administered according to law.

[1] Amended by act of June 9, 1880 (21 Stat., 169); Appendix No. 19, page 178, and by act of May 26, 1890, page 213.

Proof of settlement; assignment of pre-emption rights.
4 Sept., 1841, c. 16, s. 12, v. 5, p. 456.
Lytle v. Arkansas, 9 How., 333; Cunningham v. Ashley, 14 How., 377, Barnard's Heirs v. Ashley's Heirs, 18 How., 44; Garland v. Wynn, 20 How., 6; Lytle v. Arkansas, 22 How., 193; Harkness v. Underhill, 1 Bl., 325; Lindsey v. Hawse, 2 Bl., 554, Myers v. Croft, 13 Wall., 291,

SEC. 2263. Prior to any entries being made under and by virtue of the provisions of section twenty-two hundred and fifty-nine, proof of the settlement and improvement thereby required shall be made to the satisfaction of the register and receiver of the land district in which such lands lie, agreeably to such rules as may be prescribed by the Secretary of the Interior; and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

Statement to be filed by settler with intent to purchase, on lands subject to private entry.
4 Sept., 1841, c. 16, s. 15, v. 5, p. 457.

SEC. 2264. When any person settles or improves a tract of land subject at the time of settlement to private entry, and intends to purchase the same under the preceding provisions of this chapter, he shall, within thirty days after the date of such settlement, file with the register of the proper district a written statement, describing the land settled upon, and declaring his intention to claim the same under the pre-emption laws; and he shall, moreover, within twelve months after the date of such settlement, make the proof, affidavit, and payment hereinbefore required. If he fails to file such written statement, or to make such affidavit, proof, and payment within the several periods named above, the tract of land so settled and improved shall be subject to the entry of any other purchaser.[1]

Claim filed by settler on land not proclaimed for sale.
3 Mar., 1843, c. 86, s. 5, v. 5, p. 620.
Johnson v. Tawsley, 13 Wall., 72.

SEC. 2265. Every claimant under the preemption law for land not yet proclaimed for sale is required to make known his claim, in writing, to the register of the proper land office within three months from the time of the settlement, giving the designation of the tract and the time of settlement; otherwise his claim shall be forfeited and the tract awarded to the next settler, in the order of time, on the same tract of land, who has given such notice and otherwise complied with the conditions of the law.[1]

Declaratory statement of settlers on unsurveyed land, when filed.
30 May, 1862, c. 86, s. 7, v. 12, p. 410.

SEC. 2266. In regard to settlements which are authorized upon unsurveyed lands, the preemption claimant shall be in all cases required to file his declaratory statement within three months from the date of the receipt at the district land office of the approved plat of the township embracing such pre-emption settlement.[1]

Preemption claimants; time of making proof and payment.
14 July, 1870, c. 272, s. 2, v. 16, p. 279. 3 Mar., 1871, Res. 52, v. 16, p. 601.

SEC. 2267. All claimants of preemption rights under the two preceding sections shall, when no shorter time is prescribed by law, make the proper proof and payment for the land claimed within thirty months after the date prescribed therein, respectively, for filing their declaratory notices has expired.

Extension of time in certain cases to persons in military and naval service.
21 Mar., 1864, c. 38, s. 5, v. 13, p. 35.

SEC. 2268. Where a pre-emptor has taken the initiatory steps required by law in regard to actual settlement, and is called away from such settlement by being engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land office to make before the register or receiver the affidavit, proof, and payment, respectively, required by the preceding provisions of this chapter, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of

[1] In regard to cases thereafter arising under sections 2264, 2265, and 2266, the act of May 18, 1898 (30 Stat., 418), abolished the distinction between offered and unoffered lands, and enacted that the land in question in such cases shall be treated as unoffered.

his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that such pre-emptor is so in the service, being filed with the register of the land office for the district in which his settlement is made.

Death before consummating claim; who to complete, etc.
3 Mar., 1843, c. 86, s. 2, v. 5, p. 620.

SEC. 2269. Where a party entitled to claim the benefits of the preemption laws dies before consummating his claim, by filing in due time all the papers essential to the establishment of the same, it shall be competent for the executor or administrator of the estate of such party, or one of his heirs, to file the necessary papers to complete the same; but the entry in such cases shall be made in favor of the heirs of the deceased pre-emptor, and a patent thereon shall cause the title to inure to such heirs, as if their names had been specially mentioned.

Non-compliance with laws caused by vacancy in office of register or receiver not to affect, etc.
3 Mar., 1843, c. 85, s. 6, v. 5, p. 620.

SEC. 2270. Whenever the vacancy of the office either of register or receiver, or of both, renders it impossible for the claimant to comply with any requisition of the preemption laws within the appointed time, such vacancy shall not operate to the detriment of the party claiming, in respect to any matter essential to the establishment of his claim; but such requisition must be complied with within the same period after the disability is removed as would have been allowed had such disability not existed.

No preemption of lands sold but not confirmed by Land Office.
26 Aug., 1842, c. 205, v. 5, p. 534.

SEC. 2271. The provisions of this chapter shall be so construed as not to confer on anyone a right of preemption, by reason of a settlement made on a tract theretofore disposed of, when such disposal has not been confirmed by the General Land Office, on account of any alleged defect therein.

Purchase by private entry after expiration of preemption right.
3 Mar., 1843, c. 86, s. 9, v. 5, p. 621.

SEC. 2272. Nothing in the provisions of this chapter shall be construed to preclude any person, who may have filed a notice of intention to claim any tract of land by preemption, from the right allowed by law to others to purchase such tract by private entry after the expiration of the right of preemption.

When more than one settler, rights of appeals to Commissioner.
4 Sept. 1841, c. 16, s. 11, v. 5, p. 456. 12 June, 1858, c. 154, s. 10, v. 11, p. 316.
Barnard *v.* Ashley, 18 How., 43; Garland *v.* Wynn, 20 How., 6; Lindsey *v.* Hawse, 2 Bl., 554; Minnesota *v.* Batchelder, 1 Wall., 109; Johnson *v.* Tawsley, 13 Wall., 72.

SEC. 2273. When two or more persons settle on the same tract of land, the right of preemption shall be in him who made the first settlement, provided such person conforms to the other provision of the law; and all questions as to the right of preemption arising between different settlers shall be determined by the register and receiver of the district within which the land is situated; and appeals from the decision of district officers, in cases of contest for the right of preemption, shall be made to the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of Interior.

Settlements of two or more persons on same subdivision before survey.
3 Mar., 1873, c. 283, s. 1, v. 17, p. 609.

SEC. 2274. When settlements have been made upon agricultural public lands of the United States prior to the survey thereof, and it has been or shall be ascertained after the public surveys have been extended over such lands, that two or more settlers have improvements upon the same legal subdivision, it shall be lawful for such settlers to make joint entry of their lands at the local land office, or for either of said settlers to enter into contract with his co-settlers to convey to them their portion of said land after a patent is issued to him, and, after making such contract, to file a declaratory statement in his own name, and prove up and pay for said land, and proof of joint occupation by himself and

others, and of such contract with them made, shall be equivalent to proof of sole occupation and pre-emption by the applicant: *Provided*, That in no case shall the amount patented under this section exceed one hundred and sixty acres, nor shall this section apply to lands not subject to homestead or pre-emption entry.

Settlements before survey on section 16 or 36, deficiencies thereof. 26 Feb., 1859, c. 58, v. 11, p. 385.

SEC. 2275. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the preemption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by preemptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

[Section 2275 was amended by act of February 28, 1891, 26 Stat., p. 796, to read as follows, viz:

SEC. 2275. Where settlements, with a view to pre emption or homestead, have been or shall hereafter be made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the claims of such settlers; and if such sections, or either of them, have been or shall be granted, reserved, or pledged for the use of schools or colleges in the State or Territory in which they lie, other lands of equal acreage are hereby appropriated and granted, and may be selected by said State or Territory, in lieu of such as may be thus taken by preemption or homestead settlers. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory, where sections sixteen or thirty-six are mineral land, or are included within any Indian, military, or other reservation, or are otherwise disposed of by the United States: *Provided*, Where any State is entitled to said sections sixteen and thirty-six, or where said sections are reserved to any Territory, notwithstanding the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory, to compensate deficiencies for school purposes where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever. And it shall be the duty of the Secretary of the Interior, without awaiting the extension of the public surveys, to ascertain and determine, by protraction or otherwise, the number of townships that will be included within such Indian, military, or other reservations, and thereupon the State or Territory shall be entitled to select indemnity lands to the extent of two sections for each of said townships in lieu of sections sixteen and thirty-six therein; but such selections may not be made within the boundaries of said reservations: *Provided, however*, That nothing herein contained shall prevent any State or Territory from awaiting the extinguishment of any such military, Indian, or other reservation and the restoration of the lands therein embraced to the public domain and then taking the sections sixteen and thirty-six in place therein; but nothing in this proviso shall be construed as conferring any right not now existing.]

Selections to supply deficiencies of school lands. 26 Feb., 1859, c. 58, v. 11, p. 385. 20 May, 1826, c. 83, s. 1, v. 4, p. 179.

SEC. 2276. The lands appropriated by the preceding section shall be selected, within the same land district, in accordance with the following principles of adjustment, to wit: For each township or fractional township containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township containing a greater quantity of land than one-half, and not more than three-quarters, of a township, three quarters of a section; for a fractional township containing a greater quantity of land than one-quarter, and not more than one-half, of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter, of a township, one-quarter section of land.

[Section 2276 was amended by act of February 28, 1891, 26 Stat., 796, to read as follows, viz:

SEC. 2276. That the lands appropriated by the preceding section shall be selected from any unappropriated, surveyed public lands, not mineral in character, within the State or Territory where such losses or deficiencies of school sections occur; and where the selections are to compensate for deficiencies of school lands in fractional townships, such selections shall be made in accordance with the following principles of adjustment, to wit: For each township or fractional township containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township containing a greater quantity of land than one-half, and not more than three-quarters of a township, three-quarters of a section; for a fractional township containing a greater quantity of land than one-quarter, and not more than one-half of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter of a township, one-quarter section of land: *Provided*, That the States or Territories which are, or shall be entitled to both the sixteenth and thirty-sixth sections in place, shall have the right to select double the amounts named to compensate for deficiencies of school land in fractional townships.]

Military bounty-land warrants receivable for preemption payments. 22 Mar., 1852, c. 19, s. 1, v. 10, p. 3.

SEC. 2277. All warrants for military bounty lands, which are issued under any law of the United States, shall be received in payment of preemption rights at the rate of one dollar and twenty-five cents per acre, for the quantity of land therein specified; but where the land is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

Agricultural-college scrip receivable in payment of preemptions. 1 July, 1870, c. 196, v. 16, p. 186.

SEC. 2278. Agricultural-college scrip, issued to any State under the act approved July second, eighteen hundred and sixty-two, or acts amendatory thereof, shall be received from actual settlers in payment of preemption claims in the same manner and to the same extent as authorized in case of military bounty-land warrants by the preceding section.

Preemption limit along railroad lines. 3 Mar., 1853, c. 143, v. 10, p. 244.

SEC. 2279. No person shall have the right of preemption to more than one hundred and sixty acres along the line of railroads within the limits granted by any act of Congress.

Preemption rights on lands reserved for grants found invalid. 3 Mar., 1853, c. 143, v. 10, p. 244.

SEC. 2280. Any settler on lands heretofore reserved on account of claims under French, Spanish, or other grants which have been or may be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of preemption granted by the preceding provisions of this chapter, after the lands have been released from reservation, in the same manner as if no reservation had existed.

Preemption rights on lands reserved for railroads. 27 Mar., 1854, c. 55, v. 10, p. 269. 14 July, 1870, c. 272, s. 2, v. 16, p. 270.

SEC. 2281. All settlers on public lands which have been or may be withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to preemption at the ordinary minimum to the lands settled on and cultivated by them; but they shall file the proper notices of their claims and make proof and payment as in other cases.

Sale of land not to be delayed, etc. 4 Sept., 1841, c. 16, s. 14, v. 5, p. 457.

SEC. 2282. Nothing contained in this chapter shall delay the sale of any of the public lands beyond the time appointed by the proclamation of the President.

Certain lands in Kansas how to be sold. 9 May, 1872, c. 149, s. 1, v. 17, p. 90.

SEC. 2283. The Osage Indian trust and diminished-reserve lands in the State of Kansas, excepting the sixteenth and thirty-sixth sections in each township, shall be subject to disposal, for cash only, to actual settlers, in quantities not exceeding one hundred and sixty acres, or one-quarter section to each, in compact form, in accordance with the general principles of the preemption laws, under the direction of the Commissioner of the General

Land Office; but claimants shall file their declaratory statements as prescribed in other cases upon unoffered lands, and shall pay for the tracts, respectively, settled upon within one year from date of settlement where the plat of survey is on file at that date, and within one year from the filing of the township plat in the district office where such plat is not on file at date of settlement.

Transfer of above claims prior to, etc., subsequent right of entry.
9 May, 1872, c. 149, s. 3, v. 17, p. 90.

SEC. 2284. The sale or transfer of his claim upon any portion of these lands by any settler prior to the twenty-sixth day of April, eighteen hundred and seventy-one, shall not operate to preclude the right of entry, under the provisions of the preceding section, upon another tract settled upon subsequent to such sale or transfer; but satisfactory proof of good faith must be furnished upon such subsequent settlement.

Preemption restrictions not to apply to certain lands in Kansas.
9 May, 1872, c. 149, s. 3, v. 17, p. 90.

SEC. 2285. The restrictions of the preemption laws, contained in sections twenty-two hundred and sixty and twenty-two hundred and sixty-one, shall not apply to any settler on the Osage Indian trust and diminished-reserve lands in the State of Kansas, who was actually residing on his claim on the ninth day of May, eighteen hundred and seventy-two.

Preemption by counties for seats of justice.
26 May, 1824, c. 169, s. 1, v. 4, p. 50.

SEC. 2286. There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of preemption to one quarter-section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each such quarter-section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

Where claimant of entry becomes register or receiver.
20 Apr., 1871, c. 21, s. 16, v. 17, p. 10.

SEC. 2287. Any bona fide settler under the homestead or preemption laws of the United States who has filed the proper application to enter not to exceed one quarter-section of the public lands in any district land office, and who has been subsequently appointed a register or receiver, may perfect the title to the land under the preemption laws by furnishing the proofs and making the payments required by law to the satisfaction of the Commissioner of the General Land Office.

Right of transfer of settlers under homestead or preemption laws for certain public purposes.
Act of 3 Mar., 1873, c. 266, v. 17, p. 602.

SEC. 2288. Any person who has already settled or hereafter may settle on the public lands, either by preemption or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his preemption or homestead for church, cemetery, or school purposes, and for the right of way of railroad across such preemption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their preemptions or homesteads.

[Section 3 of the act of March 3, 1891, page 222, enacts that section twenty-two hundred and eighty-eight of the Revised Statutes be amended so as to read as follows:

SEC. 2288. Any bona fide settler under the preemption, homestead, or other settlement law shall have the right to transfer, by warranty against his own acts, any portion of his claim for church, cemetery, or school purposes, or for the right of way of railroads, canals, reservoirs, or ditches for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim.]

HOMESTEADS.

Who may enter certain unappropriated public lands. 20 May, 1862, c. 75, s. 1, v. 12, p. 392.

SEC. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section or a less quantity of unappropriated public lands, upon which such person may have filed a pre-emption claim, or which may, at the time the application is made, be subject to preemption at one dollar and twenty-five cents per acre; or eighty acres or less of such unappropriated lands at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

Mode of procedure. 21 June, 1866, c. 127, s. 2, v. 14, p. 67. 20 May, 1862, c. 75, s. 2, v. 12, p. 392. 21 Mar., 1864, c. 38, s. 2, v. 13, p. 35.

SEC. 2290. The person applying for the benefit of the preceding section shall, upon application to the register of the land-office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the register or receiver, on payment of five dollars when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

Section 5 of the act of March 3, 1891, page 223, enacts, That sections twenty-two hundred and eighty-nine and twenty-two hundred and ninety, in said chapter numbered 5 of the Revised Statutes, be, and the same are hereby, amended, so that they shall read as follows:

SEC. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than one hundred and sixty acres of land in any State or Territory shall acquire any right under the homestead law. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

SEC. 2290. That any person applying to enter land under the preceding section shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part,

to the benefit of any person, except himself, or herself, and upon filing such affidavit with the register or receiver on payment of five dollars, when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified.

Certificate and patent; when given and issued. 21 June, 1866, c, 127, s. 2, v. 14, p. 67.

SEC. 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they, will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law.

When rights inure to the benefit of infant children. 21 June, 1866, c. 127, s. 2. v. 14, p. 67.

SEC. 2292. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money above specified.

Persons in military or naval service, when and before whom to make affidavit. 21 Mar., 1864, c. 38, s. 4, v. 13, p. 35.

SEC. 2293. In case of any person desirous of availing himself of the benefits of this chapter, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

When persons may make affidavit before clerk of court. 21 Mar., 1864, c. 38, s. 3, v. 13, p. 35.

SEC. 2294. In any case in which the applicant for the benefit of the homestead, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona fide improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.[1]

[1]Amended by the act of May 26, 1890, page 213.

Record of applications. 20 May, 1862, c. 75, s. 3, v. 12, p. 393.

SEC. 2295. The register of the land office shall note all applications under the provisions of this chapter on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

Homestead lands not to be subject to prior debts. 20 May, 1862, c. 75, s. 4, v. 12, p. 393.

SEC. 2296. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

When lands entered for homestead revert to Government. 20 May, 1862, c. 75, s. 5, v. 12 p. 393.

SEC. 2297. If, at any time after the filing of the affidavit, as required in section twenty-two hundred and ninety, and before the expiration of the five years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: [*Provided*, That where there may be climatic reasons the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe.][1]

Limitation of amount entered for homestead. 20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2298. No person shall be permitted to acquire title to more than one quarter-section under the provisions of this chapter.

Existing preemption rights not impaired. 20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2299. Nothing contained in this chapter shall be so construed as to impair or interfere in any manner with existing preemption rights; and all persons who may have filed their applications for a preemption right prior to the twentieth day of May, eighteen hundred and sixty-two, shall be entitled to all the privileges of this chapter.

What minors may have the privileges of this chapter. 20 May, 1862, c. 75, s. 8, v. 12, p. 393.

SEC. 2300. No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

Payments before expiration of five years, rights of applicant. 20 May, 1862, c. 75, s. 8, v. 12, p. 393.

SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered, at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, on making proof of settlement and cultivation as provided by law, granting preemption rights.[2]

[Section 6 of the act of March 3, 1891, page 223, enacts that section twenty-three hundred and one of the Revised Statutes be amended so as to read as follows:

"SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who shall hereafter avail himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered at any time after the expiration of fourteen calendar months from the date of such entry, and obtaining a patent therefor, upon making proof of settlement and of residence

[1] The portion within brackets is an amendment, added by act of March 3, 1881 (21 Stat., 511, p. 181).

[2] See act of June 9, 1880 (21 Stat., 169), page 178; and act of May 26, 1890, page 213.

and cultivation for such period of fourteen months," and the provision of this section shall apply to lands on the ceded portion of the Sioux Reservation by act approved March second, eighteen hundred and eighty-nine, in South Dakota, but shall not relieve said settlers from any payments now required by law.]

No distinction on account of race or color, etc. 21 June, 1866, c. 127, s. 1, v. 14, p. 67.

SEC. 2302. No distinction shall be made in the construction or execution of this chapter on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.

21 June, 1866, c. 127, s. 1, v. 14, p. 67. Repealed. 22 June, 1876, c. 165, v. 19, p. 3.

SEC. 2303. All the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of in no other manner than according to the terms and stipulations contained in the preceding provisions of this chapter.[1]

Soldiers' and sailors' homesteads. 8 June, 1872, c. 338, s. 1, v. 17, p. 333.

SEC. 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an act approved February thirteenth, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public land along the line of any railroad or other public work, not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead, and filing his declaratory statement, within which to make his entry and commence his settlement and improvement.

Deduction of military and naval service from time, etc. 8 June, 1872, c. 338, s. 1, v. 17, p. 333.

SEC. 2305. The time which the homestead settler has served in the Army, Navy, or Marine Corps shall be deducted from the time heretofore required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

Persons who have entered less than 160 acres, rights of. 8 June, 1872, c. 338, s. 2, v. 17, p. 333.

SEC. 2306. Every person entitled, under the provisions of section twenty-three hundred and four, to enter a homestead who may have heretofore entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres.

Widow and minor children of persons entitled to home stead, etc. 8 June, 1872, c. 338, s. 3, v. 17, p. 333.

SEC. 2307. In case of the death of any person who would be entitled to a homestead under the provisions of section two thousand three hundred and four, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be

[1] Repealed by act of June 22, 1876 (19 Stat., 73).

entitled to all the benefits enumerated in this chapter, subject to all the provisions as to settlement and improvement therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

Actual service in the Army or Navy equivalent to residence, etc.
8 June, 1872, c. 338 s. 4, v. 17, p. 333.

SEC. 2308. Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service.

Who may enter by agent.
8 June, 1872, c. 338, s. 5, v. 17, p. 334.

SEC. 2309. Every soldier, sailor, marine, officer, or other person coming within the provisions of section two thousand three hundred and four, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in preemption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

Chiefs, etc., of Stockbridge Munsees; homestead rights of.
3 Mar., 1865, c. 127, s. 4, v. 13, p. 562.

SEC. 2310. Each of the chiefs, warriors, and heads of families of the Stockbridge, Munsee tribes of Indians residing in the county of Shawano, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

Exemption of homestead of Stockbridge Munsees.
3 Mar., 1865, c. 127, s. 4, v. 13, p. 562.

SEC. 2311. The homestead secured by virtue of the preceding section, shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner encumbered, except upon the decree of the district court of the United States, as provided in the following section:

Stockbridge Munsees becoming citizens.
3 Mar., 1865, c. 127, s. 4, v. 13, p. 562.

SEC. 2312. Whenever any of the chiefs, warriors, or heads of families of the tribes mentioned in section twenty-three hundred and ten, having filed with the clerk of the district court of the United States a declaration of his intentions to become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, appears in such court, and proves to the satisfaction thereof, by the testimony of two citizens, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs; the court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges,

and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive such chiefs, warriors, or heads of families of annuities to which they are or may be entitled.

* * * * * * *

PUBLIC SALES AND PRIVATE ENTRIES.

SEC. 2353. All the public lands, the sale of which is authorized by law, shall, when offered at public sale to the highest bidder, be offered in half quarter-sections.

SEC. 2354. All the public lands, when offered at private sale, may be purchased at the option of the purchaser in entire sections, half-sections, quarter-sections, half quarter-sections, or quarter quarter-sections.

SEC. 2355. Every person making application at any of the land offices of the United States for the purchase at private sale of a tract of land shall produce to the register a memorandum in writing, describing the tract, which he shall enter by the proper number of the section, half-section, quarter-section, half quarter-section, or quarter quarter-section, as the case may be, and of the township and range, subscribing his name thereto, which memorandum the register shall file and preserve in his office.

* * * * * * *

SEC. 2357. The price at which the public lands are offered for sale shall be one dollar and twenty-five cents an acre; and at every public sale, the highest bidder who makes payment as provided in the preceding section shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than one dollar and twenty-five cents an acre; and all the public lands which are hereafter offered at public sale according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale, by entry at the land office, at one dollar and twenty-five cents an acre, to be paid at the time of making such entry: *Provided*, That the price to be paid for alternate reserved lands along the line of railroads within the limits granted by any act of Congress shall be two dollars and fifty cents per acre.

[The first section of the act of March 2, 1889 (page 187), enacts that from and after the passage of that act "no public lands of the United States, except those in the State of Missouri, shall be subject to private entry."]

SEC. 2358. Whenever the President is authorized to cause the public lands in any land district to be offered for sale, he may offer for sale, at first, only a part of the lands contained in such district, and at any subsequent time or times he may offer for sale in the same manner any other part, or the remainder of the land contained in the same.

SEC. 2359. The public lands which are exposed to public sale by order of the President shall be advertised for a period of not less than three nor more than six months prior to the day of sale, unless otherwise specially provided.

SEC. 2360. The public sales of lands shall, respectively, be kept open for two weeks, and no longer, unless otherwise specially provided by law.

[Section 9 of the act of March 3, 1891, (page 224) enacts—

That hereafter no public lands of the United States, except abandoned military or other reservations, isolated and disconnected fractional tracts authorized to be sold by section twenty-four hundred and fifty-five of the Revised Statutes, and mineral and other lands the sale of which at public auction has been authorized by acts of Congress of a special nature having local application, shall be sold at public sale.]

REPAYMENTS.

* * * * * * *

Purchase money refunded where sale can not be confirmed. 12 Jan., 1865, c. 5, v. 4, p. 80. 28 Feb., 1859, c. 64, s. 1, v. 11, p. 387.

SEC. 2362. The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale can not be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.[1]

Refunding in certain cases: how done. 28 Feb., 1859, c. 64, s. 2, v. 11, p. 388.

SEC. 2363. Where any tract of land has been erroneously sold, as described in the preceding section, and the money which was paid for the same has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust-fund, to repay the purchase-money to the parties entitled thereto.

* * * * * * *

DEPOSITS FOR SPECIAL SURVEYS.

SEC. 2401.[2] When the settlers in any township, not mineral or reserved by Government, desire a survey made of the same, under the authority of the surveyor-general, and file an application therefor in writing, and deposit in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it may be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, to survey such township and make return thereof to the general and proper local land office, provided the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

SEC. 2402. The deposit of money in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sums so deposited for the objects contemplated by that section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying service; but any excesses in such sums over and above the actual costs of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively.

SEC. 2403.[3] (As amended by act of March 3, 1879.) Where settlers make deposits in accordance with the provisions of section twenty-four hundred and one, the amount so deposited shall go in part payment for their lands situated in the townships, the surveying of which is paid for out of such deposits; or the certificates issued for such deposits may be assigned by indorsement and be received in payment for any public lands of the United States entered by settlers under the pre-emption and homestead laws of the United States, and not otherwise. [*Provided*, That no certificate issued for a deposit of money for the survey

[1] Amended by act of June 16, 1880 (21 Stat., 287; Appendix No. 21).

[2] Sections 2401 and 2403, amended by act of August 20, 1894; 28 Stat., 423. See pages 97 and 233 of this circular.

[3] Sections 2401 and 2403, amended by act of August 20, 1894; 28 Stat., 423. See pages 97 and 233, of this circular.

of lands shall be received in payment for lands except at the land office in which the lands surveyed for which the deposit was made are subject to entry, and not elsewhere; but this section shall not be held to impair, prejudice, or affect in any manner certificates issued or deposits and contracts made under the provisions of said act prior to the passage of this act.][1]

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MILITARY BOUNTY LAND WARRANTS.

Military bounty-land warrants and locations assignable.
22 Mar., 1852, c. 19, s. 1, v. 10, p. 3; 3 June, 1858, c. 84, s. 2, v. 11, p. 309.

SEC. 2414. All warrants for military bounty lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are declared to be assignable by deed or instrument of writing, made and executed according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owner of the warrant or location.

Warrants located at $1.25; excess paid in cash.
22 Mar., 1852; c. 19, s. 1, v. 10, p. 3.

SEC. 2415. The warrants which have been or may hereafter be issued in pursuance of law may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States subject to private entry at the time of such location at the minimum price. When such warrant is located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per acre, the locator shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on. But where such tract is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

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SEC. 2437. It shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State or land district as the holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field notes of the surveyor, or from any other information in the possession of the local office, and, upon the location being made, the Secretary shall cause a patent to be transmitted to such warrantee or holder.

* * * * * * *

BOARD OF EQUITABLE ADJUDICATION.

Cases of "suspended entries of public lands" and "suspended preemption land claims."
3 Aug., 1846, c. 78, s. 1, v. 9, p. 51. 3 Mar., 1853, c. 152, s. 1, v. 10, p. 258. 16 June, 1856, c. 47, v. 11, p. 22.

SEC. 2450. The Commissioner of the General Land Office is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be settled by the Secretary of the [*Treasury*] [Interior (*see act February 27, 1877*)], the Attorney-General, and the Commissioner, conjointly, consistently with such principles, all cases of suspended entries of public lands and of suspended preemption land claims, and to adjudge in what cases patents shall issue upon the same.

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[1] The portion within brackets is an amendment added by act of August 7, 1882 (22 Stat., 327; Appendix No. 24, p. 181).

SEC. 2451. Every such adjudication shall be approved by the Secretary of the Treasury and the Attorney-General, acting as a board; and shall operate only to divest the United States of the title of the lands embraced thereby, without prejudice to the rights of conflicting claimants.

Adjudications under above: how approved.
3 Aug., 1846, c. 78, s. 1, v. 9, p. 51.

SEC. 2452. The Commissioner is directed to report to Congress at the first session after any such adjudications have been made a list of the same under the classes prescribed by law, with a statement of the principles upon which each class was determined.

Report of adjudications under preceding sections.
3 Aug., 1846, c. 78, s. 2, v. 9, p. 51.

SEC. 2453. The Commissioner shall arrange his decisions into two classes; the first class to embrace all such cases of equity as may be finally confirmed by the board, and the second class to embrace all such cases as the board reject and decide to be invalid.

Decisions to be arranged into classes.
3 Aug., 1846, c. 78, s. 3, v. 9, p. 51.

SEC. 2454. For all lands covered by claims which are placed in the first class, patents shall issue to the claimants; and all lands embraced by claims placed in the second class shall ipso facto revert to, and become part of, the public domain.

Patents to issue for lands in the first class, and lands in second class to revert to the United States.
3 Aug., 1846, c. 78, s. 4, v. 9, p. 51.

SEC. 2455.[1] It may be lawful for the Commissioner of the General Land Office to order into market, after due notice, without the formality and expense of a proclamation of the President, all lands of the second class, though heretofore unproclaimed and unoffered, and such other isolated or disconnected tracts or parcels of unoffered lands which, in his judgment, it would be proper to expose to sale in like manner. But public notice of at least thirty days shall be given by the land officers of the district in which such lands may be situated, pursuant to the directions of the Commissioner.

Commissioner to order into market lands of second class.
3 Aug., 1846, c. 78, s. 5, v. 9, p. 51.

SEC. 2456. Where patents have been already issued on entries which are confirmed by the officers who are constituted the board of adjudication, the Commissioner of the General Land Office, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such confirmation, to the person who made the entry, his heirs or assigns.

Patents surrendered and new ones issued in certain cases.
3 Mar., 1853, c. 152, s. 2, v. 10, p. 258.

SEC. 2457. The preceding provisions, from section twenty-four hundred and fifty to section twenty-four hundred and fifty-six, inclusive, shall be applicable to all cases of suspended entries and locations, which have arisen in the General Land Office since the twenty-sixth day of June, eighteen hundred and fifty-six, as well as to all cases of a similar kind which may hereafter occur, embracing as well locations under bounty-land warrants as ordinary entries or sales, including homestead entries and preemption locations or cases; where the law has been substantially complied with, and the error or informality arose from ignorance, accident, or mistake which is satisfactorily explained; and where the rights of no other claimant or preempter are prejudiced, or where there is no adverse claim.

Extent of foregoing provisions.
26 June, 1856, c. 47, v. 11, p. 22.

[The rules and regulations of the board of equitable adjudication will be found printed hereinafter. See Appendix No. 85, p. 265.]

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[1] Amended by act of February 26, 1895 (28 Stat., 687), Appendix No. 63, p. 238.

CERTIFIED COPIES.

SEC. 2469. The Commissioner of the General Land Office shall cause to be prepared, and shall certify, under the seal of the office, such copies of records, books, and papers on file in his office as may be applied for, to be used in evidence in courts of justice. (See secs. 461 and 891.)

SEC. 2470. Literal exemplifications of any records which have been or may be granted in virtue of the preceding section shall be deemed of the same validity in all proceedings, whether at law or in equity, wherein such exemplifications are adduced in evidence, as if the names of the officers signing and countersigning the same had been fully inserted in such record. (Secs. 461, 891.)

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APPROPRIATE REGULATIONS.

Power of Commissioner of Land Office to enforce this title.

SEC. 2478. The Commissioner of the General Land Office, under the direction of the Secretary of the Interior, is authorized to enforce and carry into execution, by appropriate regulations, every part of the provisions of this title not otherwise specially provided for.

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[No. 2.]

PENALTY OF PERJURY.

AN ACT to provide for the punishment of certain crimes against the United States.

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SEC. 5. *And be it further enacted*, That in all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them, of any local land office in the United States or any Territory thereof, or where any oath, affirmation or affidavit shall be made or taken before any person authorized by the laws of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office or other proper officer of the Government of the United States, as under the laws of the United States, in anywise relating to or affecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and if any person or persons shall, taking such oath, affirmation, or affidavit, knowingly, willfully, or corruptly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offense by the laws of the United States.

Approved, March 3, 1857. (11 Stat., 250.)

REVISED STATUTES, SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that

he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See sec. 1750.)

[No. 3.]

SALT SPRINGS.

AN ACT providing for the sale of saline lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be made appear to the register and the receiver of any land-office of the United States that any lands within their district are saline in character, it shall be the duty of said register and said receiver, under the regulation of the General Land Office, to take testimony in reference to such lands to ascertain their true character, and to report the same to the General Land Office; and if, upon such testimony, the Commissioner of the General Land Office shall find that such lands are saline and incapable of being purchased under any of the laws of the United States relative to the public domain, then, and in such case, such lands shall be offered for sale by public auction at the local land-office of the district in which the same shall be situated, under such regulations as shall be prescribed by the Commissioner of the General Land Office, and sold to the highest bidder for cash at a price not less than one dollar and twenty-five cents per acre; and in case said lands fail to sell when so offered, then the same shall be subject to private sale at such land-office, for cash, at a price not less than one dollar and twenty-five cents per acre, in the same manner as other lands of the United States are sold: *Provided*, That the foregoing enactments shall not apply to any State or Territory which has not had a grant of salines by act of Congress, nor to any State which may have had such a grant, until either the grant has been fully satisfied, or the right of selection thereunder has expired by efflux of time. But nothing in this act shall authorize the sale or conveyance of any title other than such as the United States has, and the patents issued shall be in the form of a release and quit-claim of all title of the United States in such lands.

SEC. 2. That all executive proclamations relating to the sales of public lands shall be published in only one newspaper, the same to be printed and published in the State or Territory where the lands are situated, and to be designated by the Secretary of the Interior.

Approved, January 12, 1877. (19 Stat., 221.)

[No. 4.]

DESERT LANDS.

AN ACT to provide for the sale of desert lands in certain States and Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre, to file a declaration, under oath, with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land, not exceeding one section; by conducting water upon the same within the period of three years thereafter: *Provided, however*, That the right to the use of water by the person so conducting the same on or to any tract of desert land of six hundred and forty acres shall depend upon bona fide prior appropriation; and such right shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land if surveyed, and if unsurveyed shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided*, That no person shall be permitted to enter more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form.

SEC. 2. That all lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land-office in which said tract of land may be situated.

SEC. 3. That this act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office.

Approved, March 3, 1877. (19 Stat., 377.)

[No. 5.]

HOMESTEAD PROOF.

AN ACT to amend section twenty-two hundred and ninety-one of the Revised Statutes of the United States, in relation to proof required in homestead entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance, required to be made by section twenty-two hundred and ninety-one of the Revised Statutes of the United States, may be made before the judge, or in his absence, before the clerk of any court of record of the county and State, or district and Territory in which the lands are situated; and if said lands are situated in any unorganized county such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same.

SEC. 2. That if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register.

Approved, March 3, 1877. (19 Stat., 403.)

[No. 6.]

TIMBER AND STONE ENTRIES.

AN ACT for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale, according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: *Provided*, That nothing herein contained shall defeat or impair any bona fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona fide settler, or lands containing gold, silver, cinnabar, copper, or

coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further*, That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabitated; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belonged to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this act, the register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided*, That any person having a valid claim to any portion of the

land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

* * * * * * *

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, June 3, 1878. (20 Stat., 89.)

[No. 7.]

CHANGE OF PRE-EMPTION FILING TO HOMESTEAD ENTRY.

AN ACT for the relief of settlers on the public lands under the pre-emption laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has made a settlement on the public lands under the pre-emption laws, and has subsequent to such settlement changed his filing in pursuance of law to that for a homestead entry upon the same tract of land, shall be entitled, subject to all the provisions of the law relating to homesteads, to have the time required to perfect his title under the homestead laws computed from the date of his original settlement heretofore made, or hereafter to be made, under the pre-emption laws.

Approved, June 14, 1878. (20 Stat., 113.)

[No. 8.]

TIMBER CULTURE.

AN ACT to amend an act entitled "An act to encourage the growth of timber on the western prairies."

Be it enacted by the Senate and House of Representatives of the United States of America.in Congress assembled, That the act entitled "An act to amend the act entitled 'An act to encourage the growth of timber on western prairies,'" approved March thirteenth, eighteen hundred and seventy-four, be, and the same is hereby amended so as to read as follows: That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, who shall plant, protect, and keep in a healthy, growing condition for eight years ten acres of timber, on any quarter section of any of the public lands of the United States, or five acres on any legal subdivision of eighty acres, or two and one-half acres on any legal subdivision of forty acres or less, shall be entitled to a patent for the whole of said quarter section, or of such legal subdivision of eighty or forty acres, or fractional subdivision of less than forty acres, as the case may be, at the expiration of said eight years, on making proof of such fact by not less than two credible

witnesses, and a full compliance of the further conditions as provided in section two: *Provided further*, That not more than one quarter of any section shall be thus granted, and that no person shall make more than one entry under the provisions of this act.

SEC. 2. That the person applying for the benefits of this act shall, upon application to the register of the land district in which he or she is about to make such entry, make affidavit, before the register or the receiver, or the clerk of some court of record, or officer authorized to administer oaths in the district where the land is situated; which affidavit shall be as follows, to wit: I, ——— ———, having filed my application, number ——, for an entry under the provisions of an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies,'" approved ———, eighteen hundred and seventy ——, do solemnly swear (or affirm) that I am the head of a family (or over twenty-one years of age), and a citizen of the United States (or have declared my intention to become such); that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provision of this said act, and that I have not heretofore made an entry under this act, or the acts of which this is amendatory. And upon filing said affidavit with said register and said receiver, and on payment of ten dollars if the tract applied for is more than eighty acres, and five dollars if it is eighty acres or less, he or she shall thereupon be permitted to enter the quantity of land specified; and the party making an entry of a quarter section under the provisions of this act shall be required to break or plow five acres covered thereby the first year, five acres the second year, and to cultivate to crop or otherwise the five acres broken or plowed the first year; the third year he or she shall cultivate to crop or otherwise the five acres broken the second year, and to plant in timber, seeds, or cuttings the five acres first broken or plowed, and to cultivate and put in crop or otherwise the remaining five acres, and the fourth year to plant in timber, seeds, or cuttings the remaining five acres. All entries of less quantity than one quarter section shall be plowed, planted, cultivated and planted to trees, tree seeds, or cuttings, in the same manner and in the same proportion as hereinbefore provided for a quarter section: *Provided, however*, That in case such trees, seeds, or cuttings shall be destroyed by grasshoppers, or by extreme and unusual drouth, for any year or term of years, the time for planting such trees, seeds, or cuttings shall be extended one year for every such year that they are so destroyed: *Provided further*, That the person making such entry shall, before he or she shall be entitled to such extension of time, file with the register and receiver of the proper land office an affidavit, corroborated by two witnesses, setting forth the destruction of such trees, and that, in consequence of such destruction, he or she is compelled to ask an extension of time, in accordance with the provisions of this act: *And provided further*, That no final certificate shall be given, or patent issued, for the land so entered, until the expiration of eight years from the date of such entry; and if, at the expiration of such time, or at any time within five years thereafter, the person making such entry, or, if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he or she or they have planted, and, for

not less than eight years, have cultivated and protected such quantity and character of trees as aforesaid; that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making such proof there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall receive a patent for such tract of land.

SEC. 3. That if at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, the claimant shall fail to comply with any of the requirements of this act, then and in that event such lands shall be subject to entry under the homestead laws, or by some other person under the provisions of this act: *Provided*, That the party making claim to said land, either as a homestead settler or under this act, shall give, at the time of filing his application, such notice to the original claimant as shall be prescribed by the rules established by the Commissioner of the General Land Office; and the rights of the parties shall be determined as in other contested cases.

SEC. 4. That no land acquired under the provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

SEC. 5. That the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall each be entitled to receive two dollars at the time of entry, and the like sum when the claim is finally established and the final certificate issued.

SEC. 6. That the fifth section of the act entitled "An act in addition to an act to punish crimes against the United States, and for other purposes," approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits required or authorized by this act.

SEC. 7. That parties who have already made entries under the acts approved March third, eighteen hundred and seventy-three, and March thirteenth, eighteen hundred and seventy-four, of which this is amendatory, shall be permitted to complete the same upon full compliance with the provisions of this act; that is, they shall, at the time of making their final proof, have had under cultivation, as required by this act, an amount of timber sufficient to make the number of acres required by this act.

SEC. 8. All acts and parts of acts in conflict with this act are hereby repealed.

Approved, June 14, 1878. (20 Stat., 113.)

[No. 9.]

PRIVATE LAND CLAIM INDEMNITY SCRIP.

AN ACT defining the manner in which certain land scrip may be assigned and located, or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in cases prosecuted under the acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land claims in the States

of Florida, Louisiana, and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of the second section of this act; and said certificate of location or scrip shall be subdivided according to the request of the confirmee or confirmees, and as nearly as practicable in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name.

SEC. 2. That such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims in the same manner and to the same extent as is now authorized by law in the case of military-bounty land warrants.

SEC. 3. That the register of the proper land office, upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue, as in other cases, in the name of the locator or his legal representative.

SEC. 4. That the provisions of this act respecting the assignment and patenting of scrip and its application to preemption and homestead claims shall apply to the indemnity certificates of location provided for by the act of the second of June, eighteen hundred and fifty-eight, entitled "An act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes."

Approved, January 28, 1879. (20 Stat., 274.)

[No. 10.]

SPECIAL SURVEY DEPOSITS.

AN ACT to amend section twenty-four hundred and three of the Revised Statutes of the United States, in relation to deposits for surveys.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-four hundred and three of the Revised Statutes of the United Statse be, and is hereby, amended so as to read as follows:

SEC. 2403.[1] Where settlers make deposits in accordance with the provisions of section twenty-four hundred and one, the amount so

[1] Further amended by acts of August 7, 1882 (22 Stat.. 327; Appendix No. 24, p. 181), and August 20, 1894 (28 Stat., 423; Appendix No. 54, p. 233).

deposited shall go in part payment for their land situated in the townships, the surveying of which is paid for out of such deposits; or the certificates issued for such deposits may be assigned by indorsement, and be received in payment for any public lands of the United States entered by settlers under the preemption and homestead laws of the United States, and not otherwise.

Approved, March 3, 1879. (20 Stat., 352.)

[No. 11.]

SETTLERS WITHIN RAILROAD LIMITS.

AN ACT to grant additional rights to homestead settlers on public lands within railroad limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, the even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military road land grant, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commission; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved, March 3, 1879. (20 Stat., 472.)

[No. 12.]

FINAL PROOF NOTICE.

AN ACT to provide additional regulations for homestead and preemption entries of public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before final proof shall be submitted by any person claiming to enter agricultural lands under

the laws providing for preemption or homestead entries, such person shall file with the register of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice the register shall publish a notice, that such application has been made, once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days the claimant shall be entitled to make proof in the manner heretofore provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

Approved, March 3, 1879. (20 Stat., 472.)

[No. 13.]

SETTLERS WITHIN RAILROAD LIMITS.

AN ACT to grant additional rights to homestead settlers on public lands within railroad limits in the States of Missouri and Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the odd sections within the limits of any grant of public lands to any railroad company in the States of Missouri and Arkansas, or to such States respectively, in aid of any railroad, where the even sections have been granted to and received by any railroad company or by such States respectively in aid of any railroad, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler; and any person who has under existing laws taken a homestead on any section within the limits of any railroad grant in said States, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the cancellation of his original entry, shall be permitted to do so without payment of fees or commissions; and the residence of such person upon and cultivation of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved, July 1, 1879. (21 Stat., 46.)

[No. 14.]

INJURY OR DESTRUCTION OF CROPS BY GRASSHOPPERS.

AN ACT for the relief of settlers on the public lands in districts subject to grasshopper incursions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for homestead and preemption settlers on the public lands, and in all cases where preemptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands under such rules and regulations, as to proof of the same, as the Commissioner of the General Land Office shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

SEC. 2. That the time for making final proof and payment by preemptors whose crops shall have been destroyed or injured as aforesaid may, in the discretion of the Commissioner of the General Land Office, be extended for one year after the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and preemption settlers shall apply to and include the settlers under an act entitled "An act to encourage the growth of timber on western prairies," approved March third, eighteen hundred and seventy-three, and the acts amendatory thereof.

Approved, July 1, 1879. (21 Stat., 48.)

INSTRUCTIONS.

The first section of the act of July 1, 1879, "for the relief of settlers on the public lands in districts subject to grasshopper incursions," provides that homestead and preemption settlers on public lands where crops have been destroyed or seriously injured by grasshoppers may leave and be absent from said lands for a period not to exceed one year continuously, under such rules and regulations as the Commissioner of the General Land Office shall prescribe, being allowed afterward to resume and perfect their settlement as though no such absence had occurred. The second section provides that the time for making final proof and payment by preemptors whose crops had been destroyed or injured as aforesaid may, at the discretion of the Commissioner, be extended for one year. (See supra.)

A settler desiring to take advantage of the provisions of this act should file with the register and receiver a written notice of intended absence, bearing his own signature, and embracing a statement that he had sustained loss or failure of his crops. This should be noted on the tract books for the protection of the claimant and the information of parties who might otherwise make settlement and attempt to obtain title.

Preemption settlers desiring the extension of time provided for in the second section of the act should apply therefor through the same officers, the application to be supported by the same character of proof, which should be made before the register or receiver of the district land office or before any officer using a seal and authorized to administer oaths.

Upon making final proof the settler having been absent under the first section should file his affidavit, with the affidavits of two or more witnesses, corroborative thereof, stating the particulars of the alleged destruction or serious injury of crops by grasshoppers.

The particulars given should be such as to admit of a decision whether the absence was justified by law or not, and should specifically show at what time the party left the land and when he resumed his settlement.

The affidavits required in cases arising under this section of the act must be made at the same time and place and before the same officer taking the other proofs.

[No. 15.]

RELINQUISHMENTS—CONTESTANT'S PREFERENCE—HOMESTEAD SETTLEMENTS.

AN ACT for the relief of settlers on public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when a preemption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

SEC. 2. In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any preemption, homestead, or timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant, and not to be reported.

SEC. 3. That any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States Land Office as is now allowed to settlers under the preemption laws to put their claims on record, and his right shall relate back to the date of settlement the same as if he settled under the preemption laws.

Approved, May 14, 1880. (21 Stat., 140.)

[No. 16.]

OSAGE TRUST AND DIMINISHED-RESERVE LANDS.

AN ACT for the relief of settlers upon the Osage trust and diminished-reserve land in Kansas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all actual settlers under existing laws upon the Osage Indian trust and diminished-reserve lands in Kansas (any failure to comply with such existing laws notwithstanding) shall be allowed sixty days after a day to be fixed by public notice

by advertisement in two newspapers in each of the proper land districts, which day shall not be later than ninety days after the passage of this act, within which to make proof of their claims, and to pay one-fourth the purchase price thereof, and the said parties shall pay the balance of said purchase price in three equal annual installments thereafter: *Provided*, That nothing herein contained shall be construed to prevent an earlier payment of the whole or any installment of said purchase money as aforesaid.

And if default be made by any settler in the payment of any portion or installment at the time it becomes due under the foregoing provisions, his entire claim, and any money he may have paid thereon, shall be forfeited, and the land shall, after proper notice, be offered for sale according to the terms hereinafter prescribed, unless before the day fixed for such offering the whole amount of purchase money shall be paid by said claimant, so as to entitle him to receive his patent for the tract embracing his claim.

SEC. 2. That all the said Indian lands remaining unsold and unappropriated, and not embraced in the claims provided for in section one of this act, shall be subject to disposal to actual settlers only, having the qualifications of preemptors on the public lands. Such settlers shall make due application to the register, with proof of settlement and qualifications as aforesaid; and, upon payment of not less than one-fourth the purchase price, shall be permitted to enter not exceeding one quarter section each, the balance to be paid in three equal installments, with like penalties, liabilities, and restrictions as to default and forfeiture as provided in section one of this act.

SEC. 3. All lands upon which such default has continued for ninety days shall be placed upon a list, and the Secretary of the Interior shall cause the same to be duly proclaimed for sale in the manner prescribed for the offering of the public lands, but not exceeding one quarter section shall be sold to any one purchaser, at a price not less than the price fixed by law; but such lands, upon which such default shall be made, shall be offered for sale by advertisement of not less than thirty days in two newspapers in the proper land districts, respectively, and unless the purchase price be fully paid before the day named in the notice, shall be sold for cash to the highest bidder at not less than the price fixed by law. And all such lands, subject to unpaid overdue installments, shall be so offered once every year. And if any of said lands shall remain unsold after the offering as aforesaid, they shall be subject to private entry, for cash, in tracts not exceeding one quarter section by one purchaser.

SEC. 4. After the payment of the first installment as hereinafter provided for, such lands shall be subject to taxation according to the laws of the State of Kansas, as other lands are or may be in said State: *Provided*, That no sale of any such lands for taxes shall operate to deprive the United States of said lands, or any part of the purchase-price thereof, but if default be made in any installment of the purchase-price as aforesaid, such tax-sale purchaser, or his or her legal representatives, may, upon the day fixed for the public sale, and after such default has become final, under the foregoing provisions, pay so much of said purchase-price as may remain unpaid, and shall thereupon be entitled to receive a patent for the same as though he had made due settlement thereon: *And provided further*, That nothing in this act shall be so construed as to deprive or impair the right of the settler, of the right of redemption under the revenue laws of the State of Kansas.

SEC. 5. That the register and the receiver shall be allowed the same fees and commissions as are allowed by law for the disposal of the public lands, and the net proceeds of the sales and disposals, after deducting the expenses of such disposals, shall be deposited to the credit of the proper Indian fund, as provided by existing laws; and the Secretary of the Interior shall make all rules and regulations necessary to carry into effect the provisions of this act.

SEC. 6. That nothing in this act shall be construed to interfere in any manner with the operation of the town-site laws as applicable to these lands: *Provided*, That all claims for entry under said statutes shall be proved up and fully paid for, before the day fixed for the commencement of the public sales provided for in section three of this act.

SEC. 7. In all cases arising under this act interest at the rate of five per centum per annum shall be computed and paid upon all that part of the purchase-money in respect to which time is given for the payment of the same.

Approved, May 28, 1880. (21 Stat., 143.)

[No. 17.]

LOSS OR FAILURE OF CROPS FROM UNAVOIDABLE CAUSE IN 1879 OR 1880 IN KANSAS AND NEBRASKA.

AN ACT for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for homestead and preemption settlers on the public lands or preemption settlers upon Indian reservations in the States of Kansas and Nebraska west of the sixth principal meridian, where there has been a loss or failure of crops from unavoidable cause, in the year of eighteen hundred and seventy-nine or eighteen hundred and eighty, to leave and be absent from said lands until the first day of October, eighteen hundred and eighty-one, under such rules and regulations as to proof and notice as the Commissioner of the General Land Office may prescribe; and during said absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

SEC. 2. That the time for making final proof and payment by such preemptors is hereby extended for one year after the expiration of the term of absence provided for in the first section of this act; but in cases where the purchase money is by law payable in installments, the first unpaid installment shall be held not to be due until one year after the expiration of the leave of absence aforesaid.

Approved, June 4, 1880. (21 Stat., 543.)

INSTRUCTIONS.

The act of June 4, 1880, "for the relief of certain homestead and preemption settlers in Kansas and Nebraska," provided that preemption settlers on the public lands, or preemption settlers upon Indian reservations in the States of Kansas and Nebraska, west of the sixth principal

meridian, where there was a loss or failure of crops from unavoidable cause in the year 1879 or 1880, might leave and be absent from said lands until the 1st day of October, 1881, under such rules and regulations as to proof and notice as the Commissioner of the General Land Office might prescribe—such settlers being allowed to resume and perfect their settlements as though no such absence had occurred; and the time for making final proof and payment by such preemptors was extended for one year. In cases where the purchase money was by law payable in installments, the first unpaid installment was held not to be due until one year after the expiration of the leave of absence aforesaid. (See supra.)

The lands to which the provisions of this act applied were included within the land districts of Wichita, Salina, Concordia, Larned, Kirwin, Wa Keeney, Oberlin, and Garden City (all the districts except Topeka and Independence), in Kansas; and Niobrara, Lincoln, Grand Island, North Platte, Bloomington, Beatrice, Neligh, Valentine, and McCook (all the districts), in Nebraska. Land lying east of the one hundredth meridian in any one of these districts did not come within the provisions of this act.

This act, since it referred to a loss or failure of crops during only the years 1879 or 1880, is now obsolete; but any pending cases will be adjudicated under the original instructions, which were as follows:

This right of absence is not available in any case in which there has not been "a loss or failure of crops from unavoidable cause in the year 1879 or 1880;" hence, when a settler not actually entitled to the benefits of this act absents himself from his claim, it will be liable to be regarded as an abandonment, and adverse claims may be recognized.

The settler desiring to leave his claim under this act should file with the register and receiver of the proper district land office a written notice of his intention to do so, bearing his signature, and embracing a statement that he has sustained a loss or failure of his crops in 1879 or 1880, this being necessary for his own protection and as notice due parties who might otherwise initiate claims to the land.

At date of final proof by any party who shall have availed himself of this act he must show by satisfactory proof the period of absence, and specific facts making appear the loss or failure of crops from unavoidable cause in 1879 or 1880, on account of which he was entitled to its benefits. The proof should consist of the party's own testimony, corroborated by that of two or more disinterested witnesses.

After a party shall have filed the notice of intended absence under this act, no contest involving his right to the land can be instituted prior to the expiration of the legal term of absence to which he is entitled. If the party should be fraudulently absent, it will be a matter of investigation in the regular manner thereafter. All notices filed will be duly entered on the records of the district office and reported with the final proof made in the case.

[No. 18.]

SETTLERS WHO BECOME INSANE.

AN ACT to provide for issuing patents for public lands claimed under the preemption and homestead laws, in cases where the settlers have become insane.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the preemption or homestead laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle

them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General Land Office that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirements in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties.

Approved, June 8, 1880. (21 Stat., 166.)

[No. 19.]

PREEMPTION AND HOMESTEAD-COMMUTATION AFFIDAVITS.

AN ACT to amend sections twenty-two hundred and sixty-two and twenty-three hundred and one of the Revised Statutes of the United States, in relation to the settler's affidavit in preemption and commuted homestead entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the affidavit required to be made by sections twenty-two hundred and sixty-two and twenty-three hundred and one of the Revised Statutes of the United States, may be made before the clerk of the county court or of any court of record, of the county and State or district and Territory in which the lands are situated; and if said lands are situated in any unorganized county, such affidavit may be made in a similar manner in any adjacent county in said State or Territory, and the affidavit so made and duly subscribed shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such clerk of the court to the register and receiver with the fee and charges allowed by law.

Approved, June 9, 1880. (21 Stat., 169.)

[No. 20.]

TIMBER TRESPASS CONDONED—PURCHASE BY HOMESTEAD CLAIMANTS—REDUCTION OF PRICE—ACT OF JUNE 15, 1880.

AN ACT relating to the public lands of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any lands of the United States shall have been entered and the Government price paid therefor in full no criminal suit or proceeding by or in the name of the United States shall thereafter be had or further maintained for any trespasses upon or for or on account of any material taken from said lands, and no civil suit or proceeding shall be had or further maintained for or on account of any trespasses upon or material taken from the said lands of the United States in the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any bona fide settler, or for or on

account of any timber or material taken or used by any person without fault or knowledge of the trespass, or for or on account of any timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same, or for or on account of any alleged conspiracy in relation thereto: *Provided*, That the provisions of this section shall apply only to trespasses and acts done or committed and conspiracies entered into prior to March first, eighteen hundred and seventy-nine: *And provided further*, That defendants in such suits or proceedings shall exhibit to the proper courts or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such entry.

SEC. 2. That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the right of those having so entered for homesteads may have been attempted to be transferred by bona fide instrument in writing, may entitle themselves to said lands by paying the Government price therefor, and in no case less than one dollar and twenty-five cents per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in nowise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

SEC. 3. That the price of lands now subject to entry which were raised to two dollars and fifty cents per acre, and put in market prior to January, eighteen hundred and sixty-one, by reason of the grant of alternate sections for railroad purposes, is hereby reduced to one dollar and twenty-five cents per acre.

SEC. 4. This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespass committed or material taken from any of the public lands after March first, eighteen hundred and seventy-nine, shall be entitled to the benefit thereof.

Approved, June 15, 1880. (21 Stat., 237.)

[No. 21.]

REPAYMENTS.

AN ACT for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase money, and commissions paid on void entries of public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled "An act to amend an act entitled 'An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States,' and amendments thereto," approved March third, eighteen hundred and seventy-three, and now incorporated in section twenty-three hundred and six of the Revised Statutes of the United States, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior

is authorized to repay to such innocent parties the fees and commissions and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase money on lands erroneously sold by the United States.

SEC. 2. In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and can not be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excess paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to the heirs or assigns.

SEC. 3. The Secretary of the Interior is authorized to make the payments herein provided for, out of any money in the Treasury not otherwise appropriated.

SEC. 4. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of the cancellation of the entries.

Approved, June 16, 1880. (21 Stat., 287).

[No. 22.]

SETTLERS ON RESTORED RAILROAD LANDS.

AN ACT for the relief of certain settlers on restored railroad lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who shall have settled and made valuable and permanent improvements upon any odd numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the preemption, homestead, or timber-culture acts of the United States, shall be permitted at any time within three months after such restoration, and under such rules and regulations as the Commissioner of the General Land Office may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same by legal subdivisions, at the price of two dollars and fifty cents per acre, and to receive patents therefor.

Approved, January 13, 1881. (21 Stat., 315.)

[No. 23.]

CLIMATIC HINDRANCES.

AN ACT to amend section 2297 of the Revised Statutes, relating to homestead settlers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section numbered twenty-two hundred and ninety-seven, of title numbered thirty-two, be amended by adding thereto the following proviso, namely: *Provided*, That where there may be climatic reasons the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe.

Approved, March 3, 1881. (21 Stat., 511.)

[No. 24.]

SPECIAL SURVEY DEPOSITS.

AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes.

* * * * * * *

Provided further, That no certificate issued for a deposit of money for the survey of lands under section twenty-four hundred and three of the Revised Statutes, and the act approved March third, eighteen hundred and seventy-nine, amendatory thereof, shall be received in payment for lands except at the land office in which the lands surveyed for which the deposit was made are subject to entry, and not elsewhere; but this section shall not be held to impair, prejudice, or affect in any manner certificates issued or deposits and contracts made under the provisions of said act prior to the passage of this act.

* * * * * * *

Approved, August 7, 1882. (22 Stat., 327.)

[No. 25.]

REGISTERS' AND RECEIVERS' FEES.

AN ACT in relation to certain fees allowed registers and receivers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fee allowed registers and receivers for testimony reduced by them to writing for claimants, in establishing preemption and homestead rights and mineral entries, and in contested cases, shall not be considered or taken into account in determining the maximum of compensation of said officers.

SEC. 2. That registers and receivers shall, upon application, furnish plats or diagrams of townships in their respective districts showing

what lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Commissioner of the General Land Office; and said officers shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed ten cents per entry; and the sums thus received for plats and lists shall not be considered or taken into account in determining the maximum of compensation of said officers.

Approved, March 3, 1883. (22 Stat., 484.)

[No. 26.]

LANDS IN ALASKA.

AN ACT providing a civil government for Alaska.

* * * * * * *

SEC. 8. That the said District of Alaska is hereby created a land district, and a United States land office for said district is hereby located at Sitka. The commissioner provided for by this act, to reside at Sitka, shall be ex officio register of said land office, and the clerk provided for by this act shall be ex officio receiver of public moneys, and the marshal provided for by this act shall be ex officio surveyor-general of said district, and the laws of the United States relating to mining claims, and the rights incident thereto, shall, from and after the passage of this act, be in full force and effect in said district, under the administration thereof herein provided for, subject to such regulations as may be made by the Secretary of the Interior, approved by the President: *Provided*, That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress: *And provided further*, That parties who have located mines or mineral privileges therein under the laws of the United States applicable to the public domain, or who have occupied and improved or exercised acts of ownership over such claims, shall not be disturbed therein, but shall be allowed to perfect their title to such claims by payment as aforesaid: *And provided also*, That the land, not exceeding six hundred and forty acres, at any station now occupied as missionary stations among the Indian tribes in said section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which said missionary stations respectively belong until action by Congress. But nothing contained in this act shall be construed to put in force in said district the general land laws of the United States.

* * * * * * *

Approved, May 17, 1884. (23 Stat., 24.)

[No. 27.]

INDIAN HOMESTEADS.

AN ACT making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and eighty-five, and for other purposes.

* * * * * * *

That such Indians as may now be located on public lands, or as may under the direction of the Secretary of the Interior, or otherwise, hereafter so locate may avail themselves of the provisions of the homestead laws as fully and to the same extent as may now be done by citizens of the United States; and to aid such Indians in making selections of homesteads and the necessary proofs at the proper land offices, one thousand dollars, or so much thereof as may be necessary, is hereby appropriated; but no fees or commissions shall be charged on account of said entries or proofs. All patents therefor shall be of the legal effect, and declare that the United States does and will hold the land thus entered for the period of twenty-five years, in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs according to the laws of the State or Territory where such land is located, and at the expiration of said period the United States will convey the same by patent to said Indian, or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.

Approved, July 4, 1884. (23 Stat., 96.)

[No. 28.]

SETTLERS WITHIN RAILROAD LIMITS.

AN ACT to protect homestead settlers within railway limits and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all homestead settlers on public lands within the railway limits restricted to less than one hundred and sixty acres of land who have heretofore made or may hereafter make the additional entry allowed either by the act approved March third, eighteen hundred and seventy-nine, or the act approved July first, eighteen hundred and seventy-nine, after having made final proof of settlement and cultivation under the original entry shall be entitled to have the lands covered by the additional entry patented without any further cost or proof of settlement and cultivation.

Approved May 6, 1886. (24 Stat., 22.)

[No. 29.]

REGISTERS' AND RECEIVERS' FEES—ACTS OF AUGUST 4, 1886, AND MARCH 3, 1887.

* * * * * * *

Hereafter all fees collected by registers or receivers, from any source whatever, which would increase their salaries beyond three thousand

dollars each a year shall be covered into the Treasury, except only so much as may be necessary to pay the actual cost of clerical services employed exclusively in contested cases; and they shall make report quarterly, under oath, of all expenditures for such clerical services, with vouchers therefor.

Act approved August 4, 1886 (24 Stat., 239), and act approved March 3, 1887 (*Id.*, 526).

[No. 30.]

RE-IMBURSEMENT FOR FAILURE OF TITLE IN NEBRASKA AND KANSAS.

AN ACT for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of re-imbursing persons, and the grantees, heirs, and devisees of persons, who, under the homestead, preemption, or other laws, settled upon or purchased lands within the grant made by an act entitled "An act for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas Railroad and Telegraph," approved July twenty-third, eighteen hundred and sixty-six, and to whom patents have been issued therefor, but against which persons, or their grantees, heirs, or devisees, decrees have been or may hereafter be rendered by the United States circuit courts on account of the priority of said grant made in the act above entitled, the sum of two hundred and fifty thousand dollars, or so much thereof as shall be required for said purpose, is hereby appropriated: *Provided*, *however*, That no part of said sum shall be paid to anyone of said parties until he shall have filed with the Secretary of the Interior a copy of the said decree, duly certified, and also a certificate of the judge of said court rendering the same to the effect that such a decree was rendered in a bona fide controversy between a plaintiff showing title under the grant made in said act and a defendant holding the patent or holding by deed under the patentee, and that the decision was in favor of the plaintiff on the ground of the priority of the grant made by said act to the filing, settlement, or purchase by the defendant or his grantor; and said claimant shall also file with the said decree and certificate a bill of the costs in such case, duly certified by the judge and clerk of said court. Thereupon it shall be the duty of the Secretary of the Interior to adjust the amount due to each defendant on the basis of what he shall have paid, not exceeding three dollars and fifty cents per acre for the tract, his title to which shall have failed as aforesaid, and the costs appearing by the bill thereof so certified as hereinbefore provided. He shall then make a requisition upon the Treasury for the sum found to be due to such claimant, or his heirs and devisees or assigns, and shall pay the same to him, taking such release, acquittance, or discharge as shall forever bar any further claim against the United States on account of the failure of the title as aforesaid: *Provided further*, That when any person, his grantees, heirs, assigns, or devisees, shall prove to the satisfaction of the Secretary of the Interior that his case is like the case of those described in the preceding portions of this act, except that he has not been sued and subjected to judgment as hereinbefore provided, and that he has in good faith paid to the person holding the prior title by the grant herein

referred to the sum demanded of him, without litigation, such Secretary shall pay to such person such sum as he has so paid, not exceeding three dollars and fifty cents per acre, taking his release therefor as hereinbefore provided.

SEC. 2. That the provisions of this act shall only apply to the actual and bona fide settlers on the lands herein referred to, his or their heirs, assigns, or legal representatives, and no one person shall be entitled to the benefits of this act for compensation for more than one hundred and sixty acres of land: *Provided*, That all other persons who purchased any part of said land at one dollar and twenty-five cents per acre, and the money was actually paid into the Treasury, such person, his heirs, assigns, or legal representatives shall be entitled to repayment of the money so actually paid by them.

Approved, March 3, 1887. (24 Stat., 550.)

[No. 31.]

ADJUSTMENT OF RAILROAD LAND GRANTS.

AN ACT to provide for the adjustment of land grants made by Congress to aid in the construction of railroads, and for the forfeiture of unearned lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby authorized and directed to immediately adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads and heretofore unadjusted.

SEC. 2. That if it shall appear, upon the completion of such adjustments respectfully [respectively], or sooner, that lands have been, from any cause, heretofore erroneously certified or patented, by the United States, to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall have been made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title thereof to the United States.

SEC. 3. That if, in the adjustment of said grants, it shall appear that the homestead or preemption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws: *Provided*, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also*, That he did not voluntarily abandon said original entry: *And provided further*, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the

Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

SEC. 4. That as to all lands, except those mentioned in the foregoing section, which have been so erroneously certified or patented as aforesaid, and which have been sold by the grantee company to citizens of the United States, or to persons who have declared their intention to become such citizens, the person or persons so purchasing in good faith, his heirs or assigns, shall be entitled to the land so purchased, upon making proof of the fact of such purchase at the proper land office, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patents of the United States shall issue therefor, and shall relate back to the date of the original certification or patenting, and the Secretary of the Interior, on behalf of the United States, shall demand payment from the company which has so disposed of such lands of an amount equal to the Government price of similar lands; and in case of neglect or refusal of such company to make payment as hereafter specified, within ninety days after the demand shall have been made, the Attorney-General shall cause suit or suits to be brought against such company for the said amount: *Provided*, That nothing in this act shall prevent any purchaser of lands erroneously withdrawn, certified, or patented as aforesaid from recovering the purchase money therefor from the grantee company, less the amount paid to the United States by such company as by this act required: *And provided*, That a mortgage or pledge of said lands by the company shall not be considered as a sale for the purpose of this act, nor shall this act be construed as a declaration of forfeiture of any portion of any land-grant for conditions broken, or as authorizing an entry for the same, or as a waiver of any rights that the United States may have on account of any breach of said conditions.

SEC. 5. That where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary Government price for like lands, and thereupon patents shall issue therefor to the said bona fide purchaser, his heirs or assigns: *Provided*, That all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona fide occupation of adverse claimants under the preemption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said preemption and homestead claimants shall be permitted to perfect their proofs and entries and receive patents therefor: *Provided further*, That this section shall not apply to lands settled upon subsequent to the first day of December, eighteen hundred and eighty-two, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

SEC. 6. That where any such lands have been sold and conveyed, as the property of any railroad company, for the State and county taxes

thereon, and the grant to such company has been thereafter forfeited, the purchaser thereof shall have the prior right, which shall continue for one year from the approval of this act, and no longer, to purchase such lands from the United States at the Government price, and patents for such lands shall thereupon issue. *Provided*, That said lands were not, previous to or at the time of the taking effect of such grant, in the possession of or subject to the right of any actual settler.

SEC. 7. That no more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which said State corporation or individual would be rightfully entitled.

Approved, March 3, 1887. (24 Stat., 556.)

[No. 32.]

PUBLIC LANDS WITHDRAWN FROM PRIVATE ENTRY, EXCEPT IN MISSOURI—HOMESTEAD LAWS MODIFIED.

AN ACT to withdraw certain public lands from private entry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act no public lands of the United States, except those in the State of Missouri, shall be subject to private entry.

SEC. 2. That any person who has not heretofore perfected title to a tract of land of which he has made entry under the homestead law, may make a homestead entry of not exceeding one-quarter section of public land subject to such entry, such previous filing or entry to the contrary notwithstanding; but this right shall not apply to persons who perfect title to lands under the preemption or homestead laws already initiated: *Provided*, That all preemption settlers upon the public lands whose claims have been initiated prior to the passage of this act may change such entries to homestead entries and proceed to perfect their titles to their respective claims under the homestead law notwithstanding they may have heretofore had the benefit of such law, but such settlers who perfect title to such claims under the homestead law shall not thereafter be entitled to enter other lands under the preemption or homestead laws of the United States.

SEC. 3. That whenever it shall be made to appear to the register and receiver of any public land office, under such regulations as the Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable, by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent upon him or her upon the lands settled upon, then such register and receiver may grant to such a settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: *Provided*, That the time of such actual absence shall not be deducted from the actual residence required by law.

SEC. 4. That the price of all sections and parts of sections of the public lands within the limits of the portions of the several grants of lands to aid in the construction of railroads which have been heretofore and which may hereafter be forfeited, which were by the act making such grants or have since been increased to the double minimum price, and also of all lands within the limits of any such railroad grant, but not embraced in such grant, lying adjacent to and coterminous with the portions of the line of any such railroad which shall not be completed at the date of this act, is hereby fixed at one dollar and twenty-five cents per acre.

SEC. 5. That any homestead settler who has heretofore entered less than one-quarter section of land may enter other and additional land lying contiguous to the original entry which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres, without proof of residence upon and cultivation of the additional entry; and if final proof of settlement and cultivation has been made for the original entry when the additional entry is made, then the patent shall issue without further proof: *Provided*, That this section shall not apply to or for the benefit of any person who at the date of making application for entry hereunder does not own and occupy the lands covered by his original entry: *And provided*, That if the original entry should fail for any reason prior to patent, or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or, if having been initiated, shall be canceled.

SEC. 6. That every person entitled, under the provisions of the homestead laws, to enter a homestead, who has heretofore complied with or who shall hereafter comply with the conditions of said laws, and who shall have made his final proof thereunder for a quantity of land less than one hundred and sixty acres and received the receiver's final receipt therefor, shall be entitled under said laws to enter as a personal right, and not assignable, by legal subdivisions of the public lands of the United States subject to homestead entry, so much additional land as added to the quantity previously so entered by him shall not exceed one hundred and sixty acres: *Provided*, That in no case shall patent issue for the land covered by such additional entry until the person making such additional entry shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered, and otherwise fully complied with such laws: *Provided also*, That this section shall not be construed as affecting any rights as to location of soldiers' certificates heretofore issued under section two thousand three hundred and six of the Revised Statutes.

SEC. 7. That the "act to provide additional regulations for homestead and preemption entries of public lands," approved March third, eighteen hundred and seventy-nine, shall not be construed to forbid the taking of testimony for final proof within ten days following the day advertised as upon which such final proof shall be made in cases where accident or unavoidable delays have prevented the applicant or witnesses from making such proof on the date specified.

SEC. 8. That nothing in this act shall be construed as suspending, repealing, or in any way rendering inoperative the provisions of the act entitled "An act to provide for the disposal of abandoned and useless military reservations," approved July fifth, eighteen hundred and eighty-four.

Approved, March 2, 1889. (25 Stat., 854.)

[No. 33.]

DISPOSAL OF THE GREAT SIOUX INDIAN RESERVATION.

AN ACT to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following tract of land, being a part of the Great Reservation of the Sioux Nation, in the Territory of Dakota, is hereby set apart for a permanent reservation for the Indians receiving rations and annuities at the Pine Ridge Agency, in the Territory of Dakota, namely: Beginning at the intersection of the one hundred and third meridian of longitude with the northern boundary of the State of Nebraska; thence north along said meridian to the South Fork of Cheyenne River, and down said stream to the mouth of Battle Creek; thence due east to White River; thence down White River to the mouth of Black Pipe Creek, on White River; thence due south to said north line of the State of Nebraska; thence west on said north line to the place of beginning. Also, the following tract of land situate in the State of Nebraska, namely: Beginning at a point on the boundary-line between the State of Nebraska and the Territory of Dakota where the range line between ranges forty-four and forty-five west of the sixth principal meridian, in the Territory of Dakota, intersects said boundary-line; thence east along said boundary-line five miles; thence due south five miles; thence due west ten miles; thence due north to said boundary-line; thence due east along said boundary-line to the place of beginning: *Provided*, That the said tract of land in the State of Nebraska shall be reserved, by Executive order, only so long as it may be needed for the use and protection of the Indians receiving rations and annuities at the Pine Ridge Agency.

SEC. 2. That the following tract of land, being a part of the said Great Reservation of the Sioux Nation, in the Territory of Dakota, is hereby set apart for a permanent reservation for the Indians receiving rations and annuities at the Rosebud Agency, in said Territory of Dakota, namely: Commencing in the middle of the main channel of the Missouri River at the intersection of the south line of Brule County; thence down said middle of the main channel of said river to the intersection of the ninety-ninth degree of west longitude from Greenwich; thence due south to the forty-third parallel of latitude; thence west along said parallel to a point due south from the mouth of Black Pipe Creek; thence due north to the mouth of Black Pipe Creek; thence down White River to a point intersecting the west line of Gregory County extended north; thence south on said extended west line of Gregory County to the intersection of the south line of Brule County extended west; thence due east on said south line of Brule County extended to the point of beginning in the Missouri River, including entirely within said reservation all islands, if any, in said river.

SEC. 3. That the following tract of land, being a part of the said Great Reservation of the Sioux Nation, in the Territory of Dakota, is hereby set apart for a permanent reservation for the Indians receiving rations and annuities at the Standing Rock Agency, in the said Territory of Dakota, namely: Beginning at a point in the center of the main channel of the Missouri River, opposite the mouth of Cannon Ball River; thence down said center of the main channel to a point ten miles north of the mouth of the Moreau River, including also within said reserva-

tion all islands, if any, in said river; thence due west to the one hundred and second degree of west longitude from Greenwich; thence north along said meridian to its intersection with the South Branch of Cannon Ball River, also known as Cedar Creek; thence down said South Branch of Cannon Ball River to its intersection with the main Cannon Ball River, and down said main Cannon Ball River to the center of the main channel of the Missouri River at the place of beginning.

SEC. 4. That the following tract of land, being a part of the said Great Reservation of the Sioux Nation, in the Territory of Dakota, is hereby set apart for a permanent reservation for the Indians receiving rations and annuities at the Cheyenne River Agency, in the said Territory of Dakota, namely: Beginning at a point in the center of the main channel of the Missouri River, ten miles north of the mouth of the Moreau River, said point being the southeastern corner of the Standing Rock Reservation; thence down said center of the main channel of the Missouri River, including also entirely within said reservation all islands, if any, in said river, to a point opposite the mouth of the Cheyenne River; thence west to said Cheyenne River, and up the same to its intersection with the one hundred and second meridian of longitude; thence north along said meridian to its intersection with a line due west from a point in the Missouri River ten miles north of the mouth of the Moreau River; thence due east to the place of beginning.

SEC. 5. That the following tract of land, being a part of the said Great Reservation of the Sioux Nation, in the Territory of Dakota, is hereby set apart for a permanent reservation for the Indians receiving rations and annuities at the Lower Brule Agency, in said Territory of Dakota, namely: Beginning on the Missouri River at Old Fort George; thence running due west to the western boundary of Presho County; thence running south on said western boundary to the forty-fourth degree of latitude; thence on said forty-fourth degree of latitude to western boundary of township number seventy-two; thence south on said township western line to an intersecting line running due west from Fort Lookout; thence eastwardly on said line to the center of the main channel of the Missouri River at Fort Lookout; thence north in the center of the main channel of the said river to the original starting point.

SEC. 6. That the following tract of land, being a part of the Great Reservation of the Sioux Nation, in the Territory of Dakota, is hereby set apart for a permanent reservation for the Indians receiving rations and annuities at the Crow Creek Agency, in said Territory of Dakato, namely: The whole of township one hundred and six, range seventy; township one hundred and seven, range seventy-one; township one hundred and eight, range seventy-one; township one hundred and eight, range seventy-two; township one hundred and nine, range seventy-two, and the south half of township one hundred and nine, range seventy-one, and all except sections one, two, three, four, nine, ten, eleven, and twelve of township one hundred and seven, range seventy, and such parts as lie on the east or left bank of the Missouri River, of the following townships, namely: Township one hundred and six, range seventy-one; township one hundred and seven, range seventy-two; township one hundred and eight, range seventy-three; township one hundred and eight, range seventy-four; township one hundred and eight, range seventy-five; township one hundred and eight, range seventy-six; township one hundred and nine, range seventy-three; township one hundred and nine, range seventy-four; south half of township one hundred and nine, range seventy-five, and township one

hundred and seven, range seventy-three; also the west half of township one hundred and six, range sixty-nine, and sections sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, and thirty-three, of township one hundred and seven, range sixty-nine.

SEC. 7. That each member of the Santee Sioux tribe of Indians now occupying a reservation in the State of Nebraska not having already taken allotments shall be entitled to allotments upon said reserve in Nebraska, as follows: To each head of a family, one-quarter of a section; to each single person over eighteen years of age, one-eighth of a section; to each orphan child under eighteen years, one-eighth of a section; to each other person under eighteen years of age now living, one-sixteenth of a section; with title thereto, in accordance with the provisions of article six of the treaty concluded April twenty-ninth, eighteen hundred and sixty-eight, and the agreement with said Santee Sioux approved February twenty-eighth, eighteen hundred and seventy-seven, and rights under the same in all other respects conforming to this act. And said Santee Sioux shall be entitled to all other benefits under this act in the same manner and with the same conditions as if they were residents upon said Sioux Reservation, receiving rations at one of the agencies herein named: *Provided*, That all allotments heretofore made to said Santee Sioux in Nebraska are hereby ratified and confirmed; and each member of the Flandreau band of Sioux Indians is hereby authorized to take allotments on the Great Sioux Reservation, or in lieu therefor shall be paid at the rate of one dollar per acre for the land to which they would be entitled, to be paid out of the proceeds of lands relinquished under this act, which shall be used under the direction of the Secretary of the Interior; and said Flandreau band of Sioux Indians is in all other respects entitled to the benefits of this act the same as if receiving rations and annuities at any of the agencies aforesaid.

SEC. 8. That the President is hereby authorized and required, whenever in his opinion any reservation of such Indians, or any part thereof, is advantageous for agricultural or grazing purposes, and the progress in civilization of the Indians receiving rations on either or any of said reservations shall be such as to encourage the belief that an allotment in severalty to such Indians, or any of them, would be for the best interest of said Indians, to cause said reservation, or so much thereof as is necessary, to be surveyed, or resurveyed, and to allot the lands in said reservation in severalty to the Indians located thereon as aforesaid, in quantities as follows: To each head of a family, three hundred and twenty acres; to each single person over eighteen years of age, one-fourth of a section; to each orphan child under eighteen years of age, one-fourth of a section; and to each other person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-eighth of a section. In case there is not sufficient land in either of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *Provided*, That where the lands on any reservation are mainly valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual; or in case any two or more Indians who may be entitled to allotments shall so agree, the President may assign the grazing lands to

which they may be entitled to them in one tract, and to be held and used in common.

SEC. 9. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within five years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner: *Provided*, That these sections as to the allotments shall not be compulsory without the consent of the majority of the adult members of the tribe, except that the allotments shall be made as provided for the orphans.

SEC. 10. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office.

SEC. 11. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the lands thus allotted for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs, as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever, and patents shall issue accordingly. And each and every allottee under this act shall be entitled to all the rights and privileges and be subject to all the provisions of section six of the act approved February eighth, eighteen hundred and eighty-seven, entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians and for other purposes." *Provided*, That the President of the United States may in any case, in his discretion, extend the period by a term not exceeding ten years; and if any lease or conveyance shall be made of the land set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such lease or conveyance or contract shall be absolutely null and void: *Provided further*, That the law of descent and partition in force in the State or Territory where the lands

may be situated shall apply thereto after patents therefor have been executed and delivered. Each of the patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto.

SEC. 12. That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner, if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress: *Provided, however*, That all lands adapted to agriculture, with or without irrigation, so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers, and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: *And provided, further*, That no patent shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years' occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the Treasury of the United States for the sole use of the tribe or tribes of Indians to whom such reservation belonged; and the same, with interest thereon at five per centum per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians, or the members thereof. The patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto.

SEC. 13. That any Indian receiving and entitled to rations and annuities at either of the agencies mentioned in this act at the time the same shall take effect, but residing upon any portion of said Great Reservation not included in either of the separate reservations herein established, may, at his option, within one year from the time when this act shall take effect, and within one year after he has been notified of his said right of option in such manner as the Secretary of the Interior shall direct by recording his election with the proper agent at the agency to which he belongs, have the allotment to which he would be otherwise entitled on one of said separate reservations upon the land where such Indian may then reside, such allotment in all other respects to conform to the allotments hereinbefore provided. Each member of the Ponca tribe of Indians now occupying a part of the old Ponca Reservation, within the limits of the said Great Sioux Reservation, shall be entitled to allotments upon said old Ponca Reservation as follows: To each head of a family, three hundred and twenty acres; to each single person over eighteen years of age, one-fourth of a section; to each orphan child under eighteen years of age, one-fourth of a section; and to each other person under eighteen years of age now living, one-eighth of a section, with title thereto and rights under the same in all

other respects conforming to this act. And said Poncas shall be entitled to all other benefits under this act in the same manner and with the same conditions as if they were a part of the Sioux Nation receiving rations at one of the agencies herein named. When allotments to the Ponca tribe of Indians and to such other Indians as allotments are provided for by this act shall have been made upon that portion of said reservation which is described in the act entitled "An act to extend the northern boundary line of the State of Nebraska," approved March twenty-eighth, eighteen hundred and eighty-two, the President shall, in pursuance of said act, declare that the Indian title is extinguished to all lands described in said act not so allotted hereunder, and thereupon all of said land not so allotted and included in said act of March twenty-eighth, eighteen hundred and eighty-two, shall be open to settlement as provided in this act: *Provided*, That the allotments to Ponca and other Indians authorized by this act to be made upon the land described in the said act entitled "An act to extend the northern boundary of the State of Nebraska," shall be made within six months from the time this act shall take effect.

SEC. 14. That in cases where the use of water for irrigation is necessary to render the lands within any Indian reservation created by this act available for agricultural purposes, the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such Indian reservation created by this act; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.

SEC. 15. That if any Indian has, under and in conformity with the provisions of the treaty with the Great Sioux Nation concluded April twenty-ninth, eighteen hundred and sixty-eight, and proclaimed by the President February twenty-fourth, eighteen hundred and sixty-nine, or any existing law, taken allotment of land within or without the limits of any of the separate reservations established by this act, such allotments are hereby ratified and made valid, and such Indian is entitled to a patent therefor in conformity with the provisions of said treaty and existing law and of the provisions of this act in relation to patents for individual allotments.

SEC. 16. That the acceptance of this act by the Indians in manner and form as required by the said treaty concluded between the different bands of the Sioux Nation of Indians and the United States, April twenty-ninth, eighteen hundred and sixty-eight, and proclaimed by the President February twenty-fourth, eighteen hundred and sixty-nine, as hereinafter provided, shall be taken and held to be a release of all title on the part of the Indians receiving rations and annuities on each of the said separate reservations, to the lands described in each of the other separate reservations so created, and shall be held to confirm in the Indians entitled to receive rations at each of said separate reservations, respectively, to their separate and exclusive use and benefit, all the title and interest of every name and nature secured therein to the different bands of the Sioux Nation by said treaty of April twenty-ninth, eighteen hundred and sixty-eight. This release shall not affect the title of any individual Indian to his separate allotment on land not included in any of said separate reservations provided for in this act, which title is hereby confirmed, nor any agreement heretofore made with the Chicago, Milwaukee and Saint Paul Railroad Company or the Dakota Central Railroad Company for a right of way through said reservations; and for any lands

acquired by any such agreement to be used in connection therewith, except as hereinafter provided; but the Chicago, Milwaukee and Saint Paul Railway Company and the Dakota Central Railroad Company shall, respectively, have the right to take and use, prior to any white person, and to any corporation, the right of way provided for in said agreements, with not to exceed twenty acres of land in addition to the right of way, for stations for every ten miles of road; and said companies shall also, respectively, have the right to take and use for right of way, side-track, depot and station privileges, machine-shop, freight-house, round-house, and yard facilities, prior to any white person, and to any corporation or association, so much of the two separate sections of land embraced in said agreements; also, the former company so much of the one hundred and eighty-eight acres, and the latter company so much of the seveny-five acres, on the east side of the Missouri River, likewise embraced in said agreements, as the Secretary of the Interior shall decide to have been agreed upon and paid for by said railroad, and to be reasonably necessary upon each side of said river for approaches to the bridge of each of said companies to be constructed across the river, for right of way, side-track, depot and station privileges, machine-shop, freight-house, round-house, and yard facilities, and no more: *Provided*, That the said railway companies shall have made the payments according to the terms of said agreements for each mile of right of way and each acre of land for railway purposes, which said companies take and use under the provisions of this act, and shall satisfy the Secretary of the Interior to that effect: *Provided further*, That no part of the lands herein authorized to be taken shall be sold or conveyed except by way of sale of, or mortgage of, the railway itself. Nor shall any of said lands be used directly or indirectly for town site purposes, it being the intention hereof that said lands shall be held for general railway uses and purposes only, including stock-yards, warehouses, elevators, terminal and other facilities of and for said railways; but nothing herein contained shall be construed to prevent any such railroad company from building upon such lands houses for the accommodation or residence of their employés, or leasing grounds contiguous to its tracks for warehouse or elevator purposes connected with said railways: *And provided further*, That said payments shall be made and said conditions performed within six months after this act shall take effect: *And provided further*, That said railway companies and each of them shall, within nine months after this act takes effect, definitely locate their respective lines of road, including all station grounds and terminals across and upon the lands of said reservation designated in said agreements, and shall also, within the said period of nine months, file with the Secretary of the Interior a map of such definite location, specifying clearly the line of road, the several station grounds, and the amount of land required for railway purposes, as herein specified, of the said separate sections of land and said tracts of one hundred and eighty-eight acres and seventy-five acres, and the Secretary of the Interior shall, within three months after the filing of such map, designate the particular portions of said sections and of said tracts of land which the said railway companies, respectively, may take and hold under the provisions of this act for railway purposes. And the said railway companies, and each of them, shall, within three years after this act takes effect, construct, complete, and put in operation their said lines of road; and in case the said lines of road are not definitely located and maps of location filed within the periods hereinbefore provided, or in case the said lines of road are not constructed, com-

pleted, and put in operation within the time herein provided, then, and in either case, the lands granted for right of way, station grounds, or other railway purposes, as in this act provided, shall, without any further act or ceremony, be declared by proclamation of the President forfeited, and shall, without entry or further action on the part of the United States, revert to the United States and be subject to entry under the other provisions of this act; and whenever such forfeiture occurs the Secretary of the Interior shall ascertain the fact and give due notice thereof to the local land officers, and thereupon the lands so forfeited shall be open to homestead entry under the provisions of this act.

SEC. 17. That it is hereby enacted that the seventh article of the said treaty of April twenty-ninth, eighteen hundred and sixty-eight, securing to said Indians the benefits of education, subject to such modifications as Congress shall deem most effective to secure to said Indians equivalent benefits of such education, shall continue in force for twenty years from and after the time this act shall take effect; and the Secretary of the Interior is hereby authorized and directed to purchase, from time to time, for the use of said Indians, such and so many American breeding cows of good quality, not exceeding twenty-five thousand in number, and bulls of like quality, not exceeding one thousand in number, as in his judgment can be under regulations furnished by him, cared for and preserved, with their increase, by said Indians: *Provided*, That each head of family or single person over the age of eighteen years, who shall have or may hereafter take his or her allotment of land in severalty, shall be provided with two milch cows, one pair of oxen, with yoke and chain, or two mares and one set of harness in lieu of said oxen, yoke, and chain, as the Secretary of the Interior may deem advisable, and they shall also receive one plow, one wagon, one harrow, one hoe, one axe, and one pitchfork, all suitable to the work they may have to do, and also fifty dollars in cash; to be expended under the direction of the Secretary of the Interior in aiding such Indians to erect a house and other buildings suitable for residence or the improvement of his allotment; no sales, barters, or bargains shall be made by any person other than said Indians with each other, of any of the personal property hereinbefore provided for, and any violation of this provision shall be deemed a misdemeanor and punished by fine not exceeding one hundred dollars, or imprisonment not exceeding one year, or both in the discretion of the court; that for two years the necessary seeds shall be provided to plant five acres of ground into different crops, if so much can be used, and provided that in the purchase of such seed preference shall be given to Indians who may have raised the same for sale, and so much money as shall be necessary for this purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated; and in addition thereto there shall be set apart, out of any money in the Treasury not otherwise appropriated, the sum of three millions of dollars, which said sum shall be deposited in the Treasury of the United States to the credit of the Sioux Nation of Indians as a permanent fund, the interest of which, at five per centum per annum, shall be appropriated, under the direction of the Secretary of the Interior, to the use of the Indians receiving rations and annuities upon the reservations created by this act, in proportion to the numbers that shall so receive rations and annuities at the time this act takes effect, as follows: One-half of said interest shall be so expended for the promotion of industrial and other suitable education among said Indians, and the other half thereof in such manner and for such purposes, including reasonable cash payments per capita as, in

the judgment of said Secretary, shall, from time to time, most contribute to the advancement of said Indians in civilization and self-support; and the Santee Sioux, the Flandreau Sioux, and the Ponca Indians shall be included in the benefits of said permanent fund, as provided in sections seven and thirteen of this act: *Provided*, That after the Government has been reimbursed for the money expended for said Indians under the provisions of this act, the Secretary of the Interior may, in his discretion, expend, in addition to the interest of the permanent fund, not to exceed ten per centum per annum of the principal of said fund in the employment of farmers and in the purchase of agricultural implements, teams, seeds, including reasonable cash payments per capita, and other articles necessary to assist them in agricultural pursuits, and he shall report to Congress in detail each year his doings hereunder. And at the end of fifty years from the passage of this act, said fund shall be expended for the purpose of promoting education, civilization, and self-support among said Indians, or otherwise distributed among them as Congress shall from time to time thereafter determine.

SEC. 18. That if any land in said Great Sioux Reservation is now occupied and used by any religious society for the purpose of missionary or educational work among said Indians, whether situate outside of or within the lines of any reservation constituted by this act, or if any such land is so occupied upon the Santee Sioux Reservation, in Nebraska, the exclusive occupation and use of said land, not exceeding one hundred and sixty acres in any one tract, is hereby, with the approval of the Secretary of the Interior, granted to any such society so long as the same shall be occupied and used by such society for educational and missionary work among said Indians; and the Secretary of the Interior is hereby authorized and directed to give to such religious society patent of such tract of land to the legal effect aforesaid; and for the purpose of such educational or missionary work any such society may purchase, upon any of the reservations herein created, any land not exceeding in any one tract one hundred and sixty acres, not interfering with the title in severalty of any Indian, and with the approval of and upon such terms, not exceeding one dollar and twenty-five cents an acre, as shall be prescribed by the Secretary of the Interior. And the Santee Normal Training School may, in like manner, purchase for such educational or missionary work on the Santee Reservation, in addition to the foregoing, in such location and quantity, not exceeding three hundred and twenty acres, as shall be approved by the Secretary of the Interior.

SEC. 19. That all the provisions of the said treaty with the different bands of the Sioux Nation of Indians concluded April twenty-ninth, eighteen hundred and sixty-eight, and the agreement with the same approved February twenty eighth, eighteen hundred and seventy-seven, not in conflict with the provisions and requirements of this act, are hereby continued in force according to their tenor and limitation, anything in this act to the contrary notwithstanding.

SEC. 20. That the Secretary of the Interior shall cause to be erected not less than thirty school houses, and more, if found necessary, on the different reservations, at such points as he shall think for the best interest of the Indians, but at such distance only as will enable as many as possible attending schools to return home nights, as white children do attending district schools: *And provided*, That any white children residing in the neighborhood are entitled to attend the said school on such terms as the Secretary of the Interior may prescribe.

SEC. 21. That all the lands in the Great Sioux Reservation outside of the separate reservations herein described are hereby restored to the public domain, except American Island, Farm Island, and Niobrara Island, and shall be disposed of by the United States to actual settlers only, under the provisions of the homestead law (except section two thousand three hundred and one thereof) and under the law relating to town-sites: *Provided*, That each settler, under and in accordance with the provisions of said homestead acts, shall pay to the United States, for the land so taken by him, in addition to the fees provided by law, the sum of one dollar and twenty-five cents per acre for all lands disposed of within the first three years after the taking effect of this act, and the sum of seventy-five cents per acre for all lands disposed of within the next two years following thereafter, and fifty cents per acre for the residue of the lands then undisposed of, and shall be entitled to a patent therefor according to said homestead laws, and after the full payment of said sums; but the rights of honorably discharged Union soldiers and sailors in the late civil war as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States, shall not be abridged, except as to said sums: *Provided*, That all lands herein opened to settlement under this act remaining undisposed of at the end of ten years from the taking effect of this act shall be taken and accepted by the United States and paid for by said United States at fifty cents per acre, which amount shall be added to and credited to said Indians as part of their permanent fund, and said lands shall thereafter be part of the public domain of the United States, to be disposed of under the homestead laws of the United States, and the provisions of this act; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of final entry, shall be null and void: *Provided*, That there shall be reserved public highways four rods wide around every section of land alloted, or opened to settlement by this act, the section lines being the center of said highways; but no deduction shall be made in the amount to be paid for each quarter-section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey. *And provided further*, That nothing in this act contained shall be so construed as to affect the right of Congress or of the government of Dakota to establish public highways, or to grant to railroad companies the right of way through said lands, or to exclude the said lands, or any thereof, from the operation of the general laws of the United States now in force granting to railway companies the right of way and depot grounds over and upon the public lands, American Island, an island in the Missouri River, near Chamberlain, in the Territory of Dakota, and now a part of the Sioux Reservation, is hereby donated to the said city of Chamberlain: *Provided further*, That said city of Chamberlain shall formally accept the same within one year from the passage of this act, upon the express condition that the same shall be preserved and used for all time entire as a public park, and for no other purpose, to which all persons shall have free access; and said city shall have authority to adopt all proper rules and regulations for the improvement and care of said park; and upon the failure of any of said conditions the said island shall revert to the United States, to be disposed of by future legislation only. Farm Island, an island in the Missouri River near Pierre, in the Territory of Dakota, and now a part of the

Sioux Reservation, is hereby donated to the said city of Pierre: *Provided further*, That said city of Pierre shall formally accept the same within one year from the passage of this act, upon the express condition that the same shall be preserved and used for all time entire as a public park, and for no other purpose, to which all persons shall have free access; and said city shall have authority to adopt all proper rules and regulations for the improvement and care of said park; and upon the failure of any of said conditions the said island shall revert to the United States, to be disposed of by future legislation only. Niobrara Island, an island in the Niobrara River, near Niobrara, and now a part of the Sioux Reservation, is hereby donated to the said city of Niobrara: *Provided further*, That the said city of Niobrara shall formally accept the same within one year from the passage of this act, upon the express condition that the same shall be preserved and used for all time entire as a public park, and for no other purpose, to which all persons shall have free access; and said city shall have authority to adopt all proper rules and regulations for the improvement and care of said park; and upon the failure of any of said conditions the said island shall revert to the United States, to be disposed of by future legislation only: *And provided further*, That if any full or mixed blood Indian of the Sioux Nation shall have located upon Farm Island, American Island, or Niobrara Island before the date of the passage of this act, it shall be the duty of the Secretary of the Interior, within three months from the time this act shall have taken effect, to cause all improvements made by any such Indian so located upon either of said islands, and all damage that may accrue to him by a removal therefrom, to be appraised, and upon the payment of the sum so determined, within six months after notice thereof by the city to which the island is herein donated to such Indian, said Indian shall be required to remove from said island, and shall be entitled to select instead of such location his allotment according to the provisions of this act upon any of the reservations herein established; or upon any land opened to settlement by this act not already located upon.

SEC. 22. That all money accruing from the disposal of lands in conformity with this act shall be paid into the Treasury of the United States and be applied solely as follows: First, to the reimbursement of the United States for all necessary actual expenditures contemplated and provided for under the provisions of this act, and the creation of the permanent fund hereinbefore provided; and after such reimbursement to the increase of said permanent fund for the purposes hereinbefore provided.

SEC. 23. That all persons who, between the twenty-seventh day of February, eighteen hundred and eighty-five, and the seventeenth day of April, eighteen hundred and eighty-five, in good faith, entered upon or made settlements with intent to enter the same under the homestead or preemption laws of the United States upon any part of the Great Sioux Reservation lying east of the Missouri River, and known as the Crow Creek and Winnebago Reservation, which by the President's proclamation of date February twenty-seventh, eighteen hundred and eighty-five, was declared to be open to settlement, and not included in the new reservation established by section six of this act, and who, being otherwise legally entitled to make such entries, located or attempted to locate thereon homestead, preemption, or town-site claims, by actual settlement and improvement of any portion of such land, shall, for a period of ninety days after the proclamation of the President required to be made by this act, have a right to re-enter upon said claims and

procure title thereto under the homestead or preemption laws of the United States, and complete the same as required therein, and their said claims shall, for such time, have a preference over later entries; and when they shall have in other respects shown themselves entitled and shall have complied with the law regulating such entries, and as to homesteads, with the special provisions of this act, they shall be entitled to have said lands, and patents therefor shall be issued as in like cases: *Provided*, That preemption claimants shall reside on their lands the same length of time before procuring title as homestead claimants under this act. The price to be paid for town-site entries shall be such as is required by law in other cases, and shall be paid into the general fund provided for by this act.

SEC. 24. That sections sixteen and thirty-six of each township of the lands open to settlement under the provisions of this act, whether surveyed or unsurveyed, are hereby reserved for the use and benefit of the public schools, as provided by the act organizing the Territory of Dakota; and whether surveyed or unsurveyed, said sections shall not be subject to claim, settlement, or entry under the provision of this act or any of the land laws of the United States: *Provided, however*, That the United States shall pay to said Indians, out of any moneys in the Treasury not otherwise appropriated, the sum of one dollar and twenty-five cents per acre for all lands reserved under the provisions of this section.

SEC. 25. That there is hereby appropriated the sum of one hundred thousand dollars, out of any money in the Treasury not otherwise appropriated, or so much thereof as may be necessary, to be applied and used towards surveying the lands herein described as being opened for settlement, said sum to be immediately available; which sum shall not be deducted from the proceeds of lands disposed of under this act.

SEC. 26. That all expenses for the surveying, platting, and disposal of the lands open to settlement under this act shall be borne by the United States, and not deducted from the proceeds of said lands.

SEC. 27. That the sum of twenty eight thousand two hundred dollars, or so much thereof as may be necessary, be, and hereby is, appropriated out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to pay to such individual Indians of the Red Cloud and Red Leaf bands of Sioux as he shall ascertain to have been deprived by the authority of the United States of ponies in the year eighteen hundred and seventy-six, at the rate of forty dollars for each pony; and he is hereby authorized to employ such agent or agents as he may deem necessary in ascertaining such facts as will enable him to carry out this provision, and to pay them therefor such sums as shall be deemed by him fair and just compensation: *Provided*, That the sum paid to each individual Indian under this provision shall be taken and accepted by such Indian in full compensation for all loss sustained by such Indian in consequence of the taking from him of ponies as aforesaid: *And provided further*, That if any Indian entitled to such compensation shall have deceased, the sum to which such Indian would be entitled shall be paid to his heirs at law, according to the laws of the Territory of Dakota.

SEC. 28. That this act shall take effect, only, upon the acceptance thereof and consent thereto by the different bands of the Sioux Nation of Indians, in manner and form prescribed by the twelfth article of the treaty between the United States and said Sioux Indians concluded April twenty-ninth, eighteen hundred and sixty-eight, which said acceptance and consent, shall be made known by proclamation by the

President of the United States, upon satisfactory proof presented to him that the same has been obtained in the manner and form required, by said twelfth article of said treaty; which proof shall be presented to him within one year from the passage of this act; and upon failure of such proof and proclamation this act becomes of no effect and null and void.

SEC. 29. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of twenty-five thousand dollars, or so much thereof as may be necessary, which sum shall be expended, under the direction of the Secretary of the Interior, for procuring the assent of the Sioux Indians to this act provided in section twenty-seven.

SEC. 30. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved, March 2, 1889. (25 Stat., 888.)

[No. 34.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas it is provided in the act of Congress, approved March second, eighteen hundred and eighty-nine, entitled "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," "that this act shall take effect only upon the acceptance thereof and consent thereto by the different bands of the Sioux Nation of Indians, in manner and form prescribed by the twelfth article of the treaty between the United States and said Sioux Indians concluded April twenty-ninth, eighteen hundred and sixty-eight, which said acceptance and consent shall be made known by proclamation by the President of the United States, upon satisfactory proof presented to him that the same has been obtained in the manner and form required by said twelfth article of said treaty; which proof shall be presented to him within one year from the passage of this act; and upon failure of such proof and proclamation this act becomes of no effect and null and void;" and

Whereas satisfactory proof has been presented to me that the acceptance of and consent to the provisions of the said act by the different bands of the Sioux Nation of Indians have been obtained in manner and form as therein required:

Now, therefore, I, Benjamin Harrison, President of the United States, by virtue of the power in me vested, do hereby make known and proclaim the acceptance of said act by the different bands of the Sioux Nation of Indians, and the consent thereto by them as required by the act, and said act is hereby declared to be in full force and effect, subject to all the provisions, conditions, limitations, and restrictions therein contained.

All persons will take notice of the provisions of said act and of the conditions, limitations, and restrictions therein contained, and be governed accordingly.

I furthermore notify all persons to particularly observe that by said act certain tracts or portions of the Great Reservation of the Sioux

Nation in the Territory of Dakota, as described by metes and bounds, are set apart as separate and permanent reservations for the Indians receiving rations and annuities at the respective agencies therein named;

That any Indian receiving and entitled to rations and annuities at either of the agencies mentioned in this act at the time the same shall take effect, but residing upon any portion of said Great Reservation not included in either of the separate reservations herein established, may, at his option, within one year from the time when this act shall take effect and within one year after he has been notified of his said right of option in such manner as the Secretary of the Interior shall direct, by recording his election with the proper agent at the agency to which he belongs, have the allotment to which he would be otherwise entitled on one of said separate reservations upon the land where such Indian may then reside.

That each member of the Ponca tribe of Indians now occupying a part of the old Ponca Reservation, within the limits of the said Great Sioux Reservation, shall be entitled to allotments upon said old Ponca Reservation, in quantities as therein set forth, and that when allotments to the Ponca tribe of Indians, and to such other Indians as allotments are provided for by this act, shall have been made upon that portion of said reservation which is described in the act entitled "An act to extend the northern boundary of the State of Nebraska," approved March twenty-eighth, eighteen hundred and eighty-two, the President shall, in pursuance of said act, declare that the Indian title is extinguished to all lands described in said act not so allotted hereunder, and thereupon all of said land not so allotted and included in said act of March twenty-eighth, eighteen hundred and eighty-two, shall be open to settlement as provided in this act;

That protection is guaranteed to such Indians as may have taken allotments either within or without the said separate reservations under the provisions of the treaty with the great Sioux Nation concluded April twenty-ninth, eighteen hundred and sixty-eight; and that provision is made in said act for the release of all title on the part of said Indians receiving rations and annuities on each separate reservation to the lands described in each of the other separate reservations, and to confirm in the Indians entitled to receive rations at each of said separate reservations, respectively, to their separate and exclusive use and benefit, all the title and interest of every name and nature secured to the different bands of the Sioux Nation by said treaty of April twenty-ninth, eighteen hundred and sixty-eight; and that said release shall not affect the title of any individual Indian to his separate allotment of land not included in any of said separate reservations, nor any agreement heretofore made with the Chicago, Milwaukee and Saint Paul Railroad Company or the Dakota Central Railroad Company respecting certain lands for right of way, station grounds, etc., regarding which certain prior rights and privileges are reserved to and for the use of said railroad companies, respectively, upon the terms and conditions set forth in said act;

That it is therein provided that if any land in said Great Sioux Reservation is occupied and used by any religious society at the date of said act for the purpose of missionary or educational work among the Indians, whether situate outside of or within the limits of any of the separate reservations, the same, not exceeding one hundred and sixty acres in any one tract, shall be granted to said society for the purposes and upon the terms and conditions therein named, and

Subject to all the conditions and limitations in said act contained, it is therein provided that all the lands in the Great Sioux Reservation

outside of the separate reservations described in said act, except American Island, Farm Island, and Niobrara Island, regarding which islands special provisions are therein made, and sections sixteen and thirty-six in each township thereof (which are reserved for school purposes), shall be disposed of by the United States, upon the terms, at the price, and in the manner therein set forth, to actual settlers only, under the provisions of the homestead law (except section two thousand three hundred and one thereof) and under the law relating to town sites.

That section twenty-three of said act provides "that all persons who, between the twenty-seventh day of February, eighteen hundred and eighty-five, and the seventeenth day of April, eighteen hundred and eighty-five, in good faith, entered upon or made settlements with intent to enter the same under the homestead or preemption laws of the United States upon any part of the Great Sioux Reservation lying east of the Missouri River, and known as the Crow Creek and Winnebago Reservation, which, by the President's proclamation of date February twenty-seventh, eighteen hundred and eighty-five, was declared to be open to settlement, and not included in the new reservation established by section six of this act, and who, being otherwise legally entitled to make such entries, located or attempted to locate thereon homestead, preemption, or town-site claims by actual settlement and improvement of any portion of such lands, shall, for a period of ninety days after the proclamation of the President required to be made by this act, have a right to reënter upon said claims and procure title thereto under the homestead or preemption laws of the United States, and complete the same as required therein, and their said claims shall, for such time, have a preference over later entries; and when they shall have in other respects shown themselves entitled and shall have complied with the law regulating such entries, and, as to homesteads, with the special provisions of this act, they shall be entitled to have said lands, and patents therefor shall be issued as in like cases, provided that preemption claimants shall reside on their lands the same length of time before procuring title as homestead claimants under this act. The price to be paid for town-site entries shall be such as is required by law in other cases and shall be paid into the general fund provided for by this act."

It is, furthermore, hereby made known that there has been and is hereby reserved from entry or settlement that tract of land now occupied by the agency and school buildings at the Lower Brûlé Agency, to wit:

The west half of the southwest quarter of section twenty-four; the east half of the southeast quarter of section twenty-three; the west half of the northwest quarter of section twenty-five; the east half of the northeast quarter of section twenty-six, and the northwest fractional quarter of the southeast quarter of section twenty-six; all in township one hundred and four, north of range seventy-two, west of the fifth principal meridian;

That there is also reserved as aforesaid the following-described tract within which the Cheyenne River Agency school and certain other buildings are located, to wit: Commencing at a point in the center of the main channel of the Missouri River opposite Deep Creek, about three miles south of Cheyenne River; thence due west five andone-half miles; thence due north to Cheyenne River; thence down said river to the center of the main channel thereof to a point in the center of the Missouri River due east or opposite the mouth of said Cheyenne River; thence down the center of the main channel of the Missouri River to the place of beginning:

That, in pursuance of the provisions contained in section one of said

act, the tract of land situate in the State of Nebraska and described in said act as follows, to wit: "Beginning at a point on the boundary line between the State of Nebraska and the Territory of Dakota, where the range line between ranges forty-four and forty-five west of the sixth principal meridian, in the Territory of Dakota, intersects said boundary line; thence east along said boundary line five miles; thence due south five miles; thence due west ten miles; thence due north to said boundary line; thence due east along said boundary line to the place of beginning," same is continued in a state of reservation so long as it may be needed for the use and protection of the Indians receiving rations and annuities at the Pine Ridge Agency.

Warning is hereby also expressly given to all persons not to enter or make settlement upon any of the tracts of land specially reserved by the terms of said act or by this proclamation, or any portion of any tracts of land to which any individual member of either of the bands of the Great Sioux Nation or the Ponca tribe of Indians shall have a preference right under the provisions of said act, and, further, to in no wise interfere with the occupancy of any of said tracts by any of said Indians, or in any manner to disturb, molest, or prevent the peaceful possession of said tracts by them.

The surveys required to be made of the lands to be restored to the public domain under the provisions of the said act and as in this proclamation set forth will be commenced and executed as early as possible.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this tenth day of February, in the year of our Lord one thousand eight hundred and ninety, and of the Independence of the United States the one hundred and fourteenth.

[SEAL.] BENJ. HARRISON.

By the President:

JAMES G. BLAINE,

Secretary of State.

[No. 35.]

DISPOSAL OF OKLAHOMA LANDS.

AN ACT making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and ninety, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEMINOLE LANDS.

SEC. 12. That the sum of one million nine hundred and twelve thousand nine hundred and forty-two dollars and two cents be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to pay in full the Seminole Nation of Indians for all the right, title, interest, and claim which said nation of Indians may have in and to certain lands ceded by article three of the treaty

between the United States and said nation of Indians which was concluded June fourteenth, eighteen hundred and sixty-six, and proclaimed August sixteenth, eighteen hundred and sixty-six, and which land was then estimated to contain two million one hundred and sixty-nine thousand and eighty acres, but which is now, after survey, ascertained to contain two million thirty-seven thousand four hundred and fourteen and sixty-two hundredths acres, said sum of money to be paid as follows: One million five hundred thousand dollars to remain in the Treasury of the United States to the credit of said nation of Indians and to bear interest at the rate of five per centum per annum from July first, eighteen hundred and eighty-nine, said interest to be paid semi-annually to the treasurer of said nation, and the sum of four hundred and twelve thousand nine hundred and forty-two dollars and twenty cents, to be paid to such person or persons as shall be duly authorized by the laws of said nation to receive the same, at such times and in such sums as shall be directed and required by the legislative authority of said nation, to be immediately available; this appropriation to become operative upon the execution of the duly appointed delegates of said nation, specially empowered so to do, of a release and conveyance to the United States of all the right, title, interest, and claim of said nation of Indians in and to said lands, in manner and form satisfactory to the President of the United States, and said release and conveyance, when fully executed and delivered, shall operate to extinguish all claims of every kind and character of said Seminole Nation of Indians in and to the tract of country to which said release and conveyance shall apply; but such release, conveyance, and extinguishment shall not inure to the benefit of or cause to vest in any railroad company any right, title, or interest whatever in or to any of said lands, and all laws and parts of laws so far as they conflict with the foregoing are hereby repealed, and all grants or pretended grants of said lands or any interest or right therein now existing in or on behalf of any railroad company, except rights of way and depot grounds, are hereby declared to be forever forfeited for breach of condition.

SEC. 13. That the lands acquired by the United States under said agreement shall be a part of the public domain, to be disposed of only as herein provided, and sections sixteen and thirty-six of each township, whether surveyed or unsurveyed, are hereby reserved for the use and benefit of the public schools, to be established within the limits of said lands under such conditions and regulations as may be hereafter enacted by Congress.

That the lands acquired by conveyance from the Seminole Indians hereunder, except the sixteenth and thirty-sixth sections, shall be disposed of to actual settlers under the homestead laws only, except as herein otherwise provided (except that section two thousand three hundred and one of the Revised Statutes shall not apply): *And provided further*, That any person who having attempted to, but for any cause, failed to secure a title in fee to a homestead under existing law, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make a homestead entry upon said lands: *And provided further*, That the rights of honorably discharged Union soldiers and sailors in the late civil war as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes shall not be abridged: *And provided further*, That each entry shall be in square form as near as practicable, and no person be permitted to enter more than one quarter section thereof; but until said lands are open for settlement by proclamation

of the President no person shall be permitted to enter upon and occupy the same, and no person violating this provision shall ever be permitted to enter any of said lands or acquire any right thereto.

The Secretary of the Interior may, after said proclamation and not before, permit entry of said lands for town sites, under sections twenty-three hundred and eighty-seven and twenty-three hundred and eighty-eight of the Revised Statutes, but no such entry shall embrace more than one half section of land.

That all the foregoing provisions with reference to lands to be acquired from the Seminole Indians, including the provisions pertaining to forfeiture, shall apply to and regulate the disposal of the lands acquired from the Muscogee or Creek Indians by articles of cession and agreement made and concluded at the city of Washington on the nineteenth day of January, in the year of our Lord eighteen hundred and eighty-nine.

SEC. 14. The President is hereby authorized to appoint three commissioners, not more than two of whom shall be members of the same political party, to negotiate with the Cherokee Indians and with all other Indians owning or claiming lands lying west of the ninety-sixth degree of longitude in the Indian Territory for the cession to the United States of all their title, claim, or interest of every kind or character in and to said lands, and any and all agreements resulting from such negotiations shall be reported to the President and by him to Congress at its next session and to the council or councils of the nation or nations, tribe or tribes, agreeing to the same, for ratification, and for this purpose the sum of twenty-five thousand dollars, or as much thereof as may be necessary, is hereby appropriated, to be immediately available: *Provided*, That said commission is further authorized to submit to the Cherokee Nation the proposition that said nation shall cede to the United States in the manner and with the effect aforesaid, all the rights of said nation in said lands upon the same terms as to payment as is provided in the agreement made with the Creek Indians of date January nineteenth, eighteen hundred and eighty-nine, and ratified by the present Congress; and if said Cherokee Nation shall accept, and by act of its legislative authority duly passed, ratify the same, the said lands shall thereupon become a part of the public domain for the purpose of such disposition as is herein provided, and the President is authorized as soon thereafter as he may deem advisable, by proclamation open said lands to settlement in the same manner and to the same effect as in this act provided concerning the lands acquired from said Creek Indians, but until said lands are opened for settlement by proclamation of the President, no person shall be permitted to enter upon and occupy the same, and no person violating this provision shall be permitted to enter any of said lands or acquire any right thereto.

SEC. 15. That the President may whenever he deems it necessary create not to exceed two land districts embracing the lands which he may open to settlement by proclamation as hereinbefore provided, and he is empowered to locate land offices for the same appointing thereto in conformity to existing law registers and receivers and for the purpose of carrying out this provision five thousand dollars or so much thereof as may be necessary is hereby appropriated.

Approved, March 2, 1889. (25 Stat., 1004.)

[No. 36.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION

Whereas, pursuant to section eight, of the act of Congress approved March third, eighteen hundred and eighty-five, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and eighty-six, and for other purposes," certain articles of cession and agreement were made and concluded at the city of Washington on the nineteenth day of January, in the year of our Lord eighteen hundred and eighty-nine, by and between the United States of America and the Muscogee (or Creek) Nation of Indians, whereby the said Muscogee (or Creek) Nation of Indians, for the consideration therein mentioned, ceded and granted to the United States, without reservation or condition, full and complete title to the entire western half of the domain of the said Muscogee (or Creek) Nation, in the Indian Territory, lying west of the division line surveyed and established under the treaty with said nation, dated the fourteenth day of June, eighteen hundred and sixty-six, and also granted and released to the United States all and every claim, estate, right, or interest of any and every description in and to any and all land and territory whatever, except so much of the former domain of said Muscogee (or Creek) Nation as lies east of said line of division surveyed and established as aforesaid, and then used and occupied as the home of said nation, and which articles of cession and agreement were duly accepted, ratified, and confirmed by said Muscogee (or Creek) Nation of Indians by act of its council, approved on the thirty-first day of January, eighteen hundred and eighty-nine, and by the United States by act of Congress approved March first, eighteen hundred and eighty-nine, and

Whereas, by section twelve of the act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and ninety, and for other purposes," approved March second, eighteen hundred and eighty-nine, a sum of money was appropriated to pay in full the Seminole Nation of Indians for all the right, title, interest, and claim which said nation of Indians might have in and to certain lands ceded by article three of the treaty between the United States and said nation of Indians, concluded June fourteenth, eighteen hundred and sixty-six, and proclaimed August sixteenth, eighteen hundred and sixty-six, said appropriation to become operative upon the execution by the duly appointed delegates of said nation, specially empowered to do so, of a release and conveyance to the United States of all right, title, interest, and claim of said nation of Indians, in and to said lands, in manner and form satisfactory to the President of the United States, and

Whereas said release and conveyance, bearing date the sixteenth day of March, eighteen hundred and eighty-nine, has been duly and fully executed, approved, and delivered; and

Whereas section thirteen of the act last aforesaid, relating to said lands, provides as follows:

SEC. 13. That the lands acquired by the United States under said agreement shall be a part of the public domain, to be disposed of only as herein provided, and sections sixteen and thirty-six of each township, whether surveyed or unsurveyed, are hereby reserved for the use and benefit of the public schools to be established within

the limits of said lands under such conditions and regulations as may be hereafter enacted by Congress.

That the lands acquired by conveyance from the Seminole Indians hereunder, except the sixteenth and thirty-sixth sections, shall be disposed of to actual settlers under the homestead laws only, except as herein otherwise provided (except that section two thousand three hundred and one of the Revised Statutes shall not apply): *And provided further*, That any person who having attempted to, but for any cause failed to secure a title in fee to a homestead under existing laws or who made entry under what is known as the commuted provision of the homestead laws shall be qualified to make a homestead entry upon said lands: *And provided further*, That the rights of honorably discharged Union soldiers and sailors in the late civil war as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes shall not be abridged: *And provided further*, That each entry shall be in square form as nearly as practicable, and no person be permitted to enter more than one-quarter section thereof, but until said lands are opened for settlement by proclamation of the President, no person shall be permitted to enter upon and occupy the same, and no person violating this provision shall ever be permitted to enter any of said lands or acquire any right thereto.

The Secretary of the Interior may, after said proclamation and not before, permit entry of said lands for town-sites, under sections twenty-three hundred and eighty-seven and twenty-three hundred and eighty-eight, of the Revised Statutes, but no such entry shall embrace more than one half section of land.

That all the foregoing provisions with reference to lands to be acquired from the Seminole Indians, including the provisions pertaining to forfeiture, shall apply to and regulate the disposal of the lands acquired from the Muscogee or Creek Indians by articles of cession and agreement made and concluded at the city of Washington, on the nineteenth day of January, in the year of our Lord eighteen hundred and eighty-nine.

Now, therefore, I, Benjamin Harrison, President of the United States, by virtue of the power in me vested by said act of Congress, approved March second, eighteen hundred and eighty-nine, aforesaid, do hereby declare and make known that so much of the lands, as aforesaid, acquired from or conveyed by the Muscogee (or Creek) Nation of Indians and from or by the Seminole Nation of Indians, respectively, as is contained within the following described boundaries, viz: Beginning at a point where the degree of longitude ninety-eight west from Greenwich, as surveyed in the years eighteen hundred and fifty-eight and eighteen hundred and seventy-one, intersects the Canadian River; thence north along and with the said degree to a point where the same intersects the Cimarron River; thence up said river, along the right bank thereof, to a point where the same is intersected by the south line of what is known as the Cherokee lands lying west of the Arkansas River or as the "Cherokee Outlet," said line being the north line of the lands ceded by the Muscogee (or Creek) Nation of Indians to the United States by the treaty of June fourteenth, eighteen hundred and sixty-six; thence east along said line to a point where the same intersects the west line of the lands set apart as a reservation for the Pawnee Indians by act of Congress approved April tenth, eighteen hundred and seventy-six, being the range line between ranges four and five east of the Indian meridian; thence south on said line to a point where the same intersects the middle of the main channel of the Cimarron River; thence up said river, along the middle of the main channel thereof, to a point where the same intersects the range line between range one east and range one west (being the Indian meridian), which line forms the western boundary of the reservation set apart, respectively, for the Iowa and Kickapoo Indians by executive orders dated, respectively, August fifteenth, eighteen hundred and eighty-three; thence south along said range line or meridian to a point where the same intersects the right bank of the North Fork of the Canadian River; thence up said river, along the right bank thereof, to the point where the same is intersected by the west line of the reservation occupied by the Citizen Band of Pottawatomies, and the Absentee Shawnee Indians, set apart

under the provisions of the treaty of February twenty-seven, eighteen hundred and sixty-seven, between the United States and the Pottawatomie tribe of Indians and referred to in the Act of Congress approved May twenty-three, eighteen hundred and seventy-two; thence south along the said west line of the aforesaid reservation to a point where the same intersects the middle of the main channel of the Canadian River; thence up the said river, along the middle of the main channel thereof, to a point opposite to the place of beginning and thence north to the place of beginning (saving and excepting one acre of land in square form in the northwest corner of section nine, in township sixteen north, range two west, of the Indian Meridian in Indian Territory, and also one acre of land in the southeast corner of the northwest quarter of section fifteen, township sixteen north, range seven west, of the Indian Meridian in the Indian Territory; (which last described two acres are hereby reserved for Government use and control), will at and after the hour of twelve o'clock, noon, of the twenty-second day of April next, and not before, be open for settlement, under the terms of and subject to, all the conditions, limitations, and restrictions contained in said act of Congress approved March second, eighteen hundred and eighty-nine, and the laws of the United States applicable thereto.

And it is hereby expressly declared and made known that no other parts or portions of the lands embraced within the Indian Territory than those herein specifically described, and declared to be open to settlement at the time above named and fixed, are to be considered as open to settlement under this proclamation or the act of March second, eighteen hundred and eighty-nine aforesaid; and

Warning, is hereby again expressly given that no person entering upon and occupying said lands before said hour of twelve o'clock, noon, of the Twenty-second day of April, A. D. eighteen hundred and eighty-nine, hereinbefore fixed, will ever be permitted to enter any of said lands or acquire any rights thereto, and that the officers of the United States will be required to strictly enforce the provisions of the Act of Congress to the above effect.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this Twenty-third day of March, in the year of our Lord one thousand, eight hundred and eighty-nine, and of the independence of the United States the one hundred and thirteenth.

[SEAL.] BENJ. HARRISON.

By the President,

JAMES G. BLAINE,

Secretary of State.

[No. 37.]

DISPOSAL OF OKLAHOMA LANDS.

AN ACT to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States Court in the Indian Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

* * * * * * *

SEC. 18. That sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for

the purpose of being applied to the public schools in the State or States hereafter to be erected out of the same. In all cases where sections sixteen and thirty-six, or either of them, are occupied by actual settlers prior to survey thereof, the county commissioners of the counties in which such sections are so occupied are authorized to locate other lands to an equal amount, in sections or fractional sections, as the case may be, within their respective counties, in lieu of the sections so occupied.

All the lands embraced in that portion of the Territory of Oklahoma heretofore known as the Public Land Strip shall be open to settlement under the provisions of the homestead laws of the United States, except section twenty-three hundred and one of the Revised Statutes, which shall not apply; but all actual and bona fide settlers upon and occupants of the lands in said Public Land Strip at the time of the passage of this act shall be entitled to have preference to and hold the lands upon which they have settled under the homestead laws of the United States, by virtue of their settlement and occupancy of said lands, and they shall be credited with the time they have actually occupied their homesteads, respectively, not exceeding two years, on the time required under said laws to perfect title as homestead settlers.

The lands within said Territory of Oklahoma, acquired by cession of the Muscogee (or Creek) Nation of Indians, confirmed by act of Congress approved March first, eighteen hundred and eighty-nine, and also the lands acquired in pursuance of an agreement with the Seminole Nation of Indians by re-lease and conveyance, dated March sixteenth, eighteen hundred and eighty-nine, which may hereafter be open to settlement, shall be disposed of under the provisions of sections twelve, thirteen, and fourteen of the "Act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and ninety, and for other purposes," approved March second, eighteen hundred and eighty-nine, and under section two of an "Act to ratify and confirm an agreement with the Muscogee (or Creek) Nation of Indians in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine: *Provided, however*, That each settler under and in accordance with the provisions of said acts shall, before receiving a patent for his homestead on the land hereafter opened to settlement as aforesaid, pay to the United States for the lands so taken by him, in addition to the fees provided by law, the sum of one dollar and twenty-five cents per acre.

Whenever any of the other lands within the Territory of Oklahoma, now occupied by any Indian tribe, shall by operation of law or proclamation of the President of the United States be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law, except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply: *Provided, however*, That each settler, under and in accordance with the provisions of said homestead laws, shall before receiving a patent for his homestead pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment be less than one dollar and twenty-five cents per acre. The rights of honorably discharged soldiers and sailors in the late civil war, as defined and described in sections twenty-three hundred and four

and twenty-three hundred and five of the Revised Statutes of the United States, shall not be abridged except as to such payment. All tracts of land in Oklahoma Territory which have been set apart for school purposes, to educational societies or missionary boards at work among the Indians, shall not be open for settlement, but are hereby granted to the respective educational societies or missionary boards for whose use the same has been set apart. No part of the land embraced within the Territory hereby created shall inure to the use and benefit of any railroad corporation, except the rights of way and land for stations heretofore granted to certain railroad corporations. Nor shall any provision of this act or any act of any officer of the United States, done or performed under the provisions of this act or otherwise, invest any corporation owning or operating any railroad in the Indian Territory or Territory created by this act, with any land or any right to any land in either of said Territories, and this act shall not apply to or affect any land which, upon any condition on becoming a part of the public domain, would inure to the benefit of, or become the property of, any railroad corporation.

SEC. 19. That the portion of the Territory of Oklahoma heretofore known as the Public Land Strip is hereby declared a public land district, and the President of the United States is hereby empowered to locate a land office in said district, at such a place as he shall select, and to appoint in conformity with existing law a register and receiver of said land office. He may also, whenever he shall deem it necessary, establish another additional land district within said Territory, locate a land office therein, and in like manner appoint a register and receiver thereof. And the Commissioner of the General Land Office shall, when directed by the President, cause the lands within the Territory to be properly surveyed and subdivided where the same has not already been done.

SEC. 20. That the procedure in applications, entries, contests, and adjudications in the Territory of Oklahoma shall be in form and manner prescribed under the homestead laws of the United States, and the general principles and provisions of the homestead laws, except as modified by the provisions of this act and the acts of Congress approved March first and second, eighteen hundred and eighty-nine, heretofore mentioned, shall be applicable to all entries made in said Territory, but no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof.

All persons who shall settle on land in said Territory under the provisions of the homestead laws of the United States and of this act shall be required to select the same in square form as nearly as may be; and no person who shall at the time be seized in fee simple of a hundred and sixty acres of land in any State or Territory shall hereafter be entitled to enter land in said Territory of Oklahoma. The provisions of sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States shall, except so far as modified by this act, apply to all homestead settlements in said Territory.

SEC. 21. That any person entitled by law to take a homestead in said Territory of Oklahoma, who has already located and filed upon or shall hereafter locate and file upon a homestead within the limits described in the President's proclamation of April first, eighteen hundred and eighty-nine, and under and in pursuance of the laws applicable to the settlement of the lands opened for settlement by such proclamation, and who has complied with all the laws relating to such homestead

settlement, may receive a patent therefor at the expiration of twelve months from date of locating upon said homestead upon payment to the United States of one dollar and twenty-five cents per acre for land embraced in such homestead.

SEC. 22. That the provisions of title thirty-two, chapter eight, of the Revised Statutes of the United States, relating to "reservation and sale of town sites on the public lands," shall apply to the lands open or to be opened to settlement in the Territory of Oklahoma, except those opened to settlement by the proclamation of the President on the twenty-second day of April, eighteen hundred and eighty-nine: *Provided*, That hereafter all surveys for town sites in said Territory shall contain reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations, to be maintained for such purposes, shall be issued to the towns respectively when organized as municipalities: *Provided further*, That, in case any lands in said Territory of Oklahoma, which may be occupied and filed upon as a homestead, under the provisions of law applicable to said Territory, by a person who is entitled to perfect his title thereto under such laws, are required for town-site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat of such proposed town site, and if such plat shall be approved by the Secretary of the Interior he shall issue a patent to such person for land embraced in said town site, upon the payment of the sum of ten dollars per acre, for all the lands embraced in such town site, except the lands to be donated and maintained for public purposes as provided in this section. And the sums so received by the Secretary of the Interior shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only.

SEC. 23. That there shall be reserved public highways four rods wide between each section of land in said Territory, the section lines being the center of said highways; but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highways shall be vacated by any competent authority the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey.

SEC. 24. That it shall be unlawful for any person, for himself or any company, association, or corporation, to directly or indirectly procure any person to settle upon any lands open to settlement in the Territory of Oklahoma with intent thereafter of acquiring title thereto; and any title thus acquired shall be void; and the parties to such fraudulent settlement shall severally be guilty of a misdemeanor, and shall be punished, upon indictment, by imprisonment not exceeding twelve months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

SEC. 25. That inasmuch as there is a controversy between the United States and the State of Texas as to the ownership of what is known as Greer County, it is hereby expressly provided that this act shall not be construed to apply to said Greer County until the title to the same has been adjudicated and determined to be in the United States; and in order to provide for speedy and final judicial determination of the controversy aforesaid the Attorney-General of the United States is hereby authorized and directed to commence in the name and on behalf of the

United States, and prosecute to a final determination, a proper suit in equity in the Supreme Court of the United States against the State of Texas, setting forth the title and claim of the United States to the tract of land lying between the North and South Forks of the Red River where the Indian Territory and the State of Texas adjoin, east of the one hundredth degree of longitude, and claimed by the State of Texas as within its boundary and a part of its land, and designated on its map as Greer County, in order that the rightful title to said land may be finally determined, and the court, on the trial of the case, may, in its discretion, so far as the ends of justice will warrant, consider any evidence heretofore taken and received by the Joint Boundary Commission under the act of Congress approved January thirty-first, eighteen hundred and eighty-five; and said case shall be advanced on the docket of said court, and proceeded with to its conclusion as rapidly as the nature and circumstances of the case permit.

* * * * * * *

Approved, May 2, 1890. (26 Stat., 81.)

[No. 38.]

MODIFIES LAWS RESPECTING AFFIDAVITS AND FINAL PROOFS IN LAND ENTRIES.

AN ACT to amend section twenty-two hundred and ninety-four of the Revised Statutes of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-two hundred and ninety-four of the Revised Statutes be, and the same is hereby, amended so that it will read as follows:

SEC. 2294. In any case in which the applicant for the benefit of the homestead, preemption, timber-culture, or desert-land law is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, he or she may make the affidavit required by law before any commissioner of the United States circuit court or the clerk of a court of record for the county in which the land is situated, and transmit the same with the fee and commissions to the register and receiver.

That the proof of settlement, residence, occupation, cultivation, irrigation, or reclamation, the affidavit of non-alienation, the oath of allegiance, and all other affidavits required to be made under the homestead, preemption, timber-culture, and desert land laws may be made before any commissioner of the United States circuit court or before the judge or clerk of any court of record of the county or parish in which the lands are situated; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register and receiver, when transmitted to them with the fee and commissions allowed and required by law. That if any witness making such proof or any applicant making any such affidavit or oath shall knowingly, wilfully, or corruptly swear falsely to any material matter contained in said proofs, affidavits, or oaths, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalty as if he had sworn falsely before the register. That the fees for entries

and for final proofs, when made before any other officer than the register and receiver, shall be as follows:

For each affidavit, twenty-five cents.

For each deposition of claimant or witness, when not prepared by the officer, twenty-five cents.

For each deposition of claimant or witness prepared by the officer, one dollar.

Any officer demanding or receiving a greater sum for such service shall be guilty of a misdemeanor, and upon conviction, shall be punished for each offense by a fine not exceeding one hundred dollars.

Approved, May 26, 1890. (26 Stat., 121.)

[No. 39.]

RESERVOIR LANDS IN WISCONSIN AND MINNESOTA MADE SUBJECT TO HOMESTEAD ENTRY.

AN ACT to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain subject to entry under the homestead law, with certain restrictions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby restored to the public domain all the lands described in certain proclamations of the President of the United States, dated March twenty-second, eighteen hundred and eighty, Executive Document numbered eight hundred and fifty-nine; also, April fifth, eighteen hundred and eighty-one, Executive Document numbered eight hundred and sixty-eight; also, February twentieth, eighteen hundred and eighty-two, Executive Document numbered eight hundred and seventy-four, withdrawing and withholding certain lands from market or entry and reserving the same to aid in the construction of certain reservoirs to be built at the headwaters of the Mississippi and Saint Croix rivers, in the States of Minnesota and Wisconsin, and of the Chippewa and Wisconsin rivers, in the State of Wisconsin, and that these lands, when so restored, shall be subject to homestead entry only.

SEC. 2. That in all cases where any of the lands restored to the public domain by the first section of this act have heretofore been sold or disposed of by the proper officers of the United States under color of the public land laws, and the consideration received therefor is still retained by the Government, the title of the purchasers may be confirmed if in the opinion of the Secretary of the Interior justice requires it; but all the lands by said first section restored shall at all times remain subject to the right of the United States to construct and maintain dams for the purpose of creating reservoirs in aid of navigation; and no claim or right to compensation shall accrue from the overflowing of said lands on account of the construction and maintenance of such dams and reservoirs.

SEC. 3. That no rights of any kind shall attach by reason of settlement or squatting upon any of the lands hereinbefore described before the day on which such lands shall be subject to homestead entry at the several land offices, and until said lands are opened for settlement no person shall enter upon and occupy the same, and any person violating

this provision shall never be permitted to enter any of said lands or acquire any title thereto. This act shall take effect six months after its approval by the President of the United States.

Approved, June 20, 1890. (26 Stat., 169.)

[No. 40.]

FORFEITED RAILROAD LANDS.

AN ACT to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby forfeited to the United States, and the United States hereby resumes the title thereto, all lands heretofore granted to any State or to any corporation to aid in the construction of a railroad opposite to and coterminous with the portion of any such railroad not now completed and in operation, for the construction or benefit of which such lands were granted; and all such lands are declared to be a part of the public domain: *Provided*, That this act shall not be construed as forfeiting the right of way or station grounds of any railroad company heretofore granted.

SEC. 2. That all persons who, at the date of the passage of this act, are actual settlers in good faith on any of the lands hereby forfeited and are otherwise qualified, on making due claim on said lands under the homestead law within six months after the passage of this act, shall be entitled to a preference right to enter the same under the provisions of the homestead law and this act, and shall be regarded as such actual settlers from the date of actual settlement or occupation; and any person who has not heretofore had the benefit of the homestead or preemption law, or who has failed from any cause to perfect the title to a tract of land heretofore entered by him under either of said laws, may make a second homestead entry under the provisions of this act. The Secretary of the Interior shall make such rules as will secure to such actual settlers these rights.

SEC. 3. That in all cases where persons, being citizens of the United States or who have declared their intentions to become such, in accordance with the naturalization laws of the United States, are in possession of any of the lands affected by any such grant and hereby resumed by and restored to the United States, under deed, written contract with, or license from the State or corporation to which such grant was made, or its assignees, executed prior to January first, eighteen hundred and eighty-eight, or where persons may have settled said lands with bona fide intent to secure title thereto by purchase from the State or corporation when earned by compliance with the conditions or requirements of the granting acts of Congress, they shall be entitled to purchase the same from the United States, in quantities not exceeding three hundred and twenty acres to any one such person, at the rate of one dollar and twenty-five cents per acre, at any time within two years from the passage of this act, and on making said payment to receive patents therefor, and where any such person in actual possession of any such lands and having improved the same prior to the first day of January, eighteen hundred and ninety, under deed, written contract, or

license as aforesaid, or his assignor, has made partial or full payments to said railroad company prior to said date, on account of the purchase price of said lands from it, on proof of the amount of such payments he shall be entitled to have the same, to the extent and amount of one dollar and twenty-five cents per acre, if so much has been paid, and not more, credited to him on account of and as part of the purchase price herein provided to be paid the United States for said lands, or such persons may elect to abandon their purchases and make claim on said lands under the homestead law and as provided in the preceding section of this act: *Provided*, That in all cases where parties, persons, or corporations, with the permission of such State or corporation or its assignees, are in the possession of and have made improvements upon any of the lands hereby resumed and restored, and are not entitled to enter the same under the provisions of this act, such parties, persons, or corporations shall have six months in which to remove any growing crop, and within which time they shall also be entitled to remove all buildings and other movable improvements from said lands: *Provided further*, That the provisions of this section shall not apply to any lands situate in the State of Iowa on which any person in good faith has made or asserted the right to make a preemption or homestead settlement: *And provided further*, That nothing in this act contained shall be construed as limiting the rights granted to purchasers or settlers by "An act to provide for the adjustment of land grants made by Congress to aid in the construction of railroads and for the forfeiture of unearned lands, and for other purposes," approved March third, eighteen hundred and eighty-seven, or as repealing, altering, or amending said act, nor in any manner affecting any cause of action existing in favor of any purchaser against his grantor for breach of any covenants of title.

SEC. 4. That section 5 of an act entitled "An act for a grant of lands to the State of Iowa in alternate sections to aid in the construction of a railroad in said State," approved May seventeenth, eighteen hundred and sixty-four, and section seven of an act entitled "An act extending the time for the completion of certain land-grant railroads in the States of Minnesota and Iowa, and for other purposes," approved March third, eighteen hundred and sixty-five, and also section five of an act entitled "An act making an additional grant of lands to the State of Minnesota in alternate sections to aid in the construction of railroads in said States," approved July fourth, eighteen hundred and sixty-six, so far as said sections are applicable to lands embraced within the indemnity limits of said grants, be, and the same are hereby, repealed; and so much of the provisions of section four of an act approved June second, eighteen hundred and sixty-four, and entitled "An act to amend an act entitled 'An act making a grant of lands to the State of Iowa in alternate sections to aid in the construction of certain railroads in said State,'" approved May fifteenth, eighteen hundred and fifty-six, be, and the same are hereby, repealed so far as they require the Secretary of the Interior to reserve any lands but the odd sections within the primary or six-miles granted limits of the roads mentioned in said act of June second, eighteen hundred and sixty-four, or the act of which the same is amendatory.

SEC. 5. That if it shall be found that any lands heretofore granted to the Northern Pacific Railroad Company and so resumed by the United States and restored to the public domain lie north of the line known as the "Harrison line," being a line drawn from Wallula, Washington, easterly to the southeast corner of the northeast one-fourth of the southeast quarter of section twenty-seven, in township seven north, of range

thirty-seven east, of the Willamette meridian, all persons who had acquired in good faith the title of the Northern Pacific Railroad Company to any portion of said lands prior to July first, eighteen hundred and eighty-five, or who at said date were in possession of any portion of said lands or had improved the same, claiming the same under written contract with said company, executed in good faith, or their heirs or assigns, as the case may be, shall be entitled to purchase the lands so acquired, possessed, or improved, from the United States, at any time prior to the expiration of one year after it shall be finally determined that such lands are restored to the public domain by the provisions of this act, at the rate of two dollars and fifty cents per acre, and to receive patents therefor upon proof before the proper land office of the fact of such acquisition, possession, or improvement, and payment therefor, without limitation as to quantity: *Provided*, That the rights of way and riparian rights heretofore attempted to be conveyed to the city of Portland, in the State of Oregon, by the Northern Pacific Railroad Company and the Central Trust Company of New York, by deed of conveyance dated August eighth, eighteen hundred and eighty-six, and which are described as follows: A strip of land fifty feet in width, being twenty-five feet on each side of the center line of a water-pipe line, as the same is staked out and located, or as it shall be hereafter finally located according to the provisions of an act of the legislative assembly of the State of Oregon approved November twenty-fifth, eighteen hundred and eighty-five, providing for the means to supply the city of Portland with an abundance of good, pure, and wholesome water over and across the following-described tracts of land: Sections nineteen and thirty-one in township one south, of range six east; sections twenty-five, thirty-one, thirty-three, and thirty-five in township one south, of range five east; sections three and five in township two south, of range five east; section one in township two south, of range four east; sections twenty-three, twenty-five, and thirty-five in township one south, of range four east, of the Willamette meridian, in the State of Oregon, forfeited by this act, are hereby confirmed unto the said city of Portland, in the State of Oregon, its successors and assigns forever, with the right to enter on the hereinbefore-described strip of land, over and across the above-described sections for the purpose of constructing, maintaining, and repairing a water-pipe line aforesaid.

SEC. 6. That no lands declared forfeited to the United States by this act shall by reason of such forfeiture inure to the benefit of any State or corporation to which lands may have been granted by Congress, except as herein otherwise provided; nor shall this act be construed to enlarge the area of land originally covered by any such grant, or to confer any right upon any State, corporation, or person to lands which were excepted from such grant. Nor shall the moiety of the lands granted to any railroad company on account of a main and a branch line appertaining to uncompleted road, and hereby forfeited, within the conflicting limits of the grants for such main and branch lines, when but one of such lines has been completed, inure by virtue of the forfeiture hereby declared to the benefit of the completed line.

SEC. 7. That in all cases where lands included in a grant of land to the State of Mississippi, for the purpose of aiding in the construction of a railroad from Brandon to the Gulf of Mexico, commonly known as the Gulf and Ship Island Railroad, have heretofore been sold by the officers of the United States for cash, or with the allowance or approval of such officers have entered in good faith under the preemption or homestead laws, or upon which there were bona fide preemption or homestead claims on the first day of January, eighteen hundred and ninety, arising

or asserted by actual occupation of the land under color of the laws of the United States, the right and title of the persons holding or claiming any such lands under such sales or entries are hereby confirmed, and persons claiming the right to enter as aforesaid may perfect their entry under the law. And on condition that the Gulf and Ship Island Railroad Company within ninety days from the passage of this act shall, by resolution of its board of directors, duly accept the provisions of the same and file with the Secretary of the Interior a valid relinquishment of all said company's interest, right, title, and claim in and to all such lands as have been sold, entered, or claimed, as aforesaid, then the forfeiture declared in the first section of this act shall not apply to or in anywise affect so much and such parts of said grant of lands to the State of Mississippi as lie south of a line drawn east and west through the point where the Gulf and Ship Island Railroad may cross the New Orleans and Northeastern Railroad in said State, until one year after the passage of this act. And there may be selected and certified to or in behalf of said company lands in lieu of those hereinbefore required to be surrendered, to be taken within the indemnity limits of the original grant nearest to and opposite such part of the line as may be constructed at the date of selection.

SEC. 8. That the Mobile and Girard Railroad Company, of Alabama, shall be entitled to the quantity of land earned by the construction of its road from Girard to Troy, a distance of eighty-four miles. And the Secretary of the Interior in making settlement and certifying to or for the benefit of the said company the lands earned thereby shall include therein all the lands sold, conveyed, or otherwise disposed of by said company not to exceed the total amount earned by said company as aforesaid. And the title of the purchasers to all such lands are hereby confirmed so far as the United States are concerned.

But such settlement and certification shall not include any lands upon which there were bona fide preemptors or homestead claims on the first day of January, eighteen hundred and ninety, arising or asserted by actual occupation of the land under color of the laws of the United States.

The right hereby given to the said railroad company is on condition that it shall within ninety days from the passage of this act, by resolution of its board of directors, duly accept the provisions of the same and file with the Secretary of the Interior a valid relinquishment of all said company's interest, right, title, and claim in and to all such lands within the limits of its grant as have heretofore been sold by the officers of the United States for cash, where the Government still retains the purchase money, or with the allowance or approval of such officers have been entered in good faith under the preemption or homestead laws, or as are claimed under the homestead or preemption laws as aforesaid, and the right and title of the persons holding or claiming any such lands under such sales or entries are hereby confirmed, and all such claims under the preemption or homestead laws may be perfected as provided by law. Said company to have the right to select other lands, as near as practicable to constructed road and within indemnity limits, in lieu of the lands so relinquished. And the title of the United States is hereby relinquished in favor of all persons holding under any sales by the local land officers of the lands in the granted limits of the Alabama and Florida Railroad grant, where the United States still retains the purchase money but without liability on the part of the United States.

Approved, September 29, 1890. (26 Stat., 496.)

[No. 41.]

SETTLERS ON NORTHERN PACIFIC RAILROAD INDEMNITY LANDS.

AN ACT for the relief of settlers on Northern Pacific Railroad indemnity lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That those persons who, after the fifteenth day of August, in the year of our Lord eighteen hundred and eighty-seven, and before the first day of January, in the year eighteen hundred and eighty-nine, settled upon, improved, and made final proof on lands in the so-called second indemnity belt of the Northern Pacific Railroad Company's grant under the homestead and preemption laws of the United States, or their heirs, may transfer their said entries from said tracts to such other vacant surveyed Government land in compact form and in legal subdivisions, subject to entry under the homestead and preemption laws, as they may select, and receive final certificates and receipts therefor, in lieu of the tracts proved up on in said belt by the respective claimants: *Provided*, That such transfer of entry shall be made and completed within twelve months from the date of the passage of this act and be so made in person by the claimant, or, in case of death, by his legal representative, and without the intervention of agent or attorney.

SEC. 2. That all persons possessing the requisite qualifications under the preemption or homestead laws, who in good faith settled upon and improved land in said second indemnity belt, having made filing or entry of the same, and for any reason, other than voluntary abandonment, failed to make proof thereon, may, in lieu thereof, within one year after the passage of this act, transfer their claims to any vacant surveyed Government land subject to entry under the homestead or preemption laws, and make proof therefor as in other cases provided; and in making such proof credit shall be given for the period of their bona fide residence and amount of their improvements upon their respective claims in the said indemnity belt, the same as if made upon the tract to which the transfer is made: *Provided*, That no final entry shall be permitted, except upon proof of continuous residence upon the land, the subject of such new entry, for a period of not less than three months prior thereto. Payment for said final selection shall be made as under existing laws. The provisions of this act shall be carried into effect under such rules and regulations as may be prescribed by the Secretary of the Interior.

Approved, October 1, 1890. (26 Stat., 647.)

[No. 42.]

ACT OF SEPTEMBER 29, 1890, FORFEITING RAILROAD LANDS, AMENDED.

CHAP. 244.—AN ACT to amend an act entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in

the construction of railroads, and for other purposes," approved September 29, 1890, be, and the same is hereby, amended so that the period within which settlers, purchasers, and others under the provisions of said act may make application to purchase lands forfeited thereby, or to make or move to perfect any homestead entries which are preserved or authorized under said act, when such period begins to run from the passage of the act, shall begin to run from the date of the promulgation by the Commissioner of the General Land Office of the instructions to the officers of the local land offices for their direction in the disposition of said lands: *Provided*, That nothing herein shall extend any time or enlarge any rights given by said act to any railroad company.

Approved, February 18, 1891. (26 Stat., 764.)

[No. 43.]

SECTION 8 OF THE FOLLOWING ACT AMENDED.

AN ACT to amend section eight of an act approved March third, eighteen hundred and ninety-one, entitled "An act to repeal timber-culture laws and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section eight of an act entitled "An act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one, be and the same is hereby amended so as to read as follows:

"SEC. 8. That suits by the United States to vacate and annul any patent heretofore issued shall only be brought within five years from the passage of this act, and suits to vacate and annul patents hereafter issued shall only be brought within six years after the date of the issuance of such patents. And in the States of Colorado, Montana, Idaho, North Dakota and South Dakota, Wyoming, and the District of Alaska, and the gold and silver regions of Nevada and the Territory of Utah, in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon, it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes under rules and regulations made and prescribed by the Secretary of the Interior, and has not been transported out of the same; but nothing herein contained shall operate to enlarge the rights of any railway company to cut timber on the public domain: *Provided*, That the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this act, and he may designate the sections or tracts of land where timber may be cut, and it shall not be lawful to cut or remove any timber except as may be prescribed by such rules and regulations; but this act shall not operate to repeal the act of June third, eighteen hundred and seventy-eight, providing for cutting of timber on mineral lands.

Approved, March 3, 1891. (26 Stat., 1093.)

[No. 44.]

REPEAL OF PREEMPTION AND TIMBER CULTURE LAWS—MODIFICATION OF HOMESTEAD AND OTHER LAWS.

AN ACT to repeal timber-culture laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the Western prairies,'" approved June fourteenth, eighteen hundred and seventy-eight, and all laws supplementary thereto or amendatory thereof, be, and the same are hereby, repealed: *Provided*, That this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this act had not been passed: *And provided further*, That the following words of the last clause of section two of said act, namely, "That not less than twenty-seven hundred trees were planted on each acre," are hereby repealed: *And provided further*, That in computing the period of cultivation the time shall run from the date of the entry, if the necessary acts of cultivation were performed within the proper time: *And provided further*, That the preparation of the land and the planting of trees shall be construed as acts of cultivation, and the time authorized to be so employed and actually employed shall be computed as a part of the eight years of cultivation required by statute: *Provided*, That any person who has made entry of any public lands of the United States under the timber-culture laws, and who has for a period of four years in good faith complied with the provisions of said laws and who is an actual bona fide resident of the State or Territory in which said land is located shall be entitled to make final proof thereto, and acquire title to the same, by the payment of one dollar and twenty-five cents per acre for such tract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, and registers and receivers shall be allowed the same fees and compensation for final proofs in timber-culture entries as is now allowed by law in homestead entries: *And provided further*, That no land acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing to the final certificate therefor.

SEC. 2. That an act to provide for the sale of desert lands in certain States and Territories, approved March third, eighteen hundred and seventy-seven, is hereby amended by adding thereto the following sections:

SEC. 4. That at the time of filing the declaration hereinbefore required the party shall also file a map of said land, which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural crops, and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections or fractional parts of sections, of desert lands may associate together in the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements.

SEC. 5. That no land shall be patented to any person under this act unless he or his assignors shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least three dollars per acre of whole tract reclaimed and patented in

the manner following: Within one year after making entry for such tract of desert land as aforesaid, the party so entering shall expend not less than one dollar per acre for the purposes aforesaid; and he shall in like manner expend the sum of one dollar per acre during the second and also during the third year thereafter, until the full sum of three dollars per acre is so expended. Said party shall file during each year with the register, proof, by the affidavits of two or more credible witnesses, that the full sum of one dollar per acre has been expended in such necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail during any year to file the testimony aforesaid, the lands shall revert to the United States, and the twenty-five cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of three dollars per acre: *Provided,* That proof be further required of the cultivation of one-eighth of the land.

SEC. 6. That this act shall not affect any valid rights heretofore accrued under said act of March third, eighteen hundred and seventy-seven, but all bona fide claims heretofore lawfully initiated may be perfected, upon due compliance with the provisions of said act, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this act had not been passed; or said claims, at the option of the claimant, may be perfected and patented under the provisions of said act, as amended by this act, so far as applicable; and all acts and parts of acts in conflict with this act are hereby repealed.

SEC. 7. That at any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the register and the receiver of the reclamation and cultivation of said land to the extent and cost and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and that he or she is a citizen of the United States, and upon payment to the receiver of the additional sum of one dollar per acre for said land, a patent shall issue therefor to the applicant or his assigns; but no person or association of persons shall hold, by assignment or otherwise prior to the issue of patent, more than three hundred and twenty acres of such arid or desert lands; but this section shall not apply to entries made or initiated prior to the approval of this act: *Provided, however,* That additional proofs may be required at any time within the period prescribed by law, and that the claims or entries made under this or any preceding act shall be subject to contest, as provided by the law relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, and the lands and moneys paid therefor shall be forfeited to the United States.

SEC. 8. That the provisions of the act to which this is an amendment, and the amendments thereto, shall apply to and be in force in the State of Colorado, as well as the States named in the original act; and no person shall be entitled to make entry of desert land except he be a resident citizen of the State or Territory in which the land sought to be entered is located.

SEC. 3. That section twenty-two hundred and eighty-eight of the Revised Statutes be amended so as to read as follows:

SEC. 2288. Any bona fide settler under the preemption, homestead, or other settlement law shall have the right to transfer, by warranty against his own acts, any portion of his claim for church, cemetery, or school purposes, or for the right of way of railroads, canals, reservoirs, or ditches for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim.

SEC. 4. That chapter four of title thirty-two, excepting sections twenty-two hundred and seventy-five, twenty-two hundred and seventy-six, twenty-two hundred and eighty-six, of the Revised Statutes of the United States, and all other laws allowing preemption of the public lands of the United States, are hereby repealed, but all bona fide claims lawfully initiated before the passage of this act, under any of said provisions of law so repealed, may be perfected upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this act had not been passed.

SEC. 5. That sections twenty-two hundred and eighty-nine and twenty-two hundred and ninety, in said chapter numbered five of the Revised Statutes, be, and the same are hereby, amended so that they shall read as follows:

SEC. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than one hundred and sixty acres of land in any State or Territory shall acquire any right under the homestead law. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

SEC. 2290. That any person applying to enter land under the preceding section shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract, in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person, except himself or herself; and upon filing such affidavit with the register or receiver, on payment of five dollars when the entry is of not more than eighty acres and on payment of ten dollars when the entry is for more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified.

SEC. 6. That section twenty-three hundred and one of the Revised Statutes be amended so as to read as follows:

"SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who shall hereafter avail himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered at any time after the expiration of fourteen calendar months from the date of such entry, and obtaining a patent therefor, upon making proof of settlement and of residence and cultivation for such period of fourteen months," and the provision of this section shall apply to lands on the ceded portion of the Sioux Reservation by act approved March second, eighteen hundred and eighty-nine, in South Dakota, but shall not relieve said settlers from any payments now required by law.

SEC. 7. That whenever it shall appear to the Commissioner of the General Land Office that a clerical error has been committed in the entry of any of the public lands such entry may be suspended, upon proper notification to the claimant, through the local land office, until the error has been corrected; and all entries made under the preemption, homestead, desert-land, or timber-culture laws, in which final proof and payment may have been made and certificates issued and to which there are no adverse claims originating prior to final entry and which have been sold or incumbered prior to the first day of March, eighteen hundred and eighty-eight, and after final entry, to bona fide purchasers, or incumbrancers, for a valuable consideration, shall, unless, upon an investigation by a Government agent, fraud on the part of a purchaser has been found, be confirmed and patented upon presentation of satisfactory proof to the Land Department of such sale or incumbrance: *Provided*, That after the lapse of two years from the date of the issuance of the receiver's receipt upon the final entry of any tract of land under the homestead, timber-culture, desert-land, or preemption laws,

or under this act, and when there shall be no pending contest or protest against the validity of such entry, the entryman shall be entitled to a patent conveying the land by him entered, and the same shall be issued to him; but this proviso shall not be construed to require the delay of two years from the date of said entry before the issuing of a patent therefor.

SEC. 8.[1] That suits by the United States to vacate and annul any patent heretofore issued shall only be brought within five years from the passage of this act and suits to vacate and annul patents hereafter issued shall only be brought within six years after the date of the issuance of such patents. And in the States of Colorado, Montana, Idaho, North Dakota and South Dakota, Wyoming, and in the District of Alaska and the gold and silver regions of Nevada, and the Territory of Utah, in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon, it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes, and has not been transported out of the same; but nothing herein contained shall apply to operate to enlarge the rights of any railway company to cut timber on the public domain: *Provided*, That the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this section.

SEC. 9. That hereafter no public lands of the United States, except abandoned military or other reservations, isolated and disconnected fractional tracts authorized to be sold by section twenty-four hundred and fifty-five of the Revised Statutes, and mineral and other lands the sale of which at public auction has been authorized by acts of Congress of a special nature having local application, shall be sold at public sale.

SEC. 10. That nothing in this act shall change, repeal, or modify any agreements or treaties made with any Indian tribes for the disposal of their lands, or of land ceded to the United States to be disposed of for the benefit of such tribes, and the proceeds thereof to be placed in the Treasury of the United States; and the disposition of such lands shall continue in accordance with the provisions of such treaties or agreements, except as provided in section 5 of this act.

SEC. 11. That until otherwise ordered by Congress lands in Alaska may be entered for town-site purposes, for the several use and benefit of the occupants of such town sites, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, such entries to be made under the provisions of section twenty-three hundred and eighty-seven of the Revised Statutes as near as may be; and when such entries shall have been made the Secretary of the Interior shall provide by regulation for the proper execution of the trust in favor of the inhabitants of the town site, including the survey of the land into lots, according to the spirit and intent of said section twenty-three hundred and eighty-seven of the Revised Statutes, whereby the same results would be reached as though the entry had been made by a county judge and the disposal of the lots in such town site and the proceeds of the sale thereof had been prescribed by the legislative authority of a State or Territory: *Provided*, That no more than six hundred and forty acres shall be embraced in one town-site entry.

[1] Amended by act of March 3, 1891. (See Appendix 43, p. 220.)

SEC. 12. That any citizen of the United States twenty-one years of age, and any association of such citizens, and any corporation incorporated under the laws of the United States, or of any State or Territory of the United States now authorized by law to hold lands in the Territories now or hereafter in possession of and occupying public lands in Alaska for the purpose of trade or manufactures, may purchase not exceeding one hundred and sixty acres, to be taken as near as practicable in a square form, of such land at two dollars and fifty cents per acre: *Provided*, That in case more than one person, association, or corporation shall claim the same tract of land the person, association, or corporation having the prior claim by reason of possession and continued occupation shall be entitled to purchase the same; but the entry of no person, association, or corporation shall include improvements made by or in possession of another prior to the passage of this act.

SEC. 13. That it shall be the duty of any person, association, or corporation entitled to purchase land under this act to make an application to the United States marshal, ex officio surveyor-general of Alaska, for an estimate of the cost of making a survey of the lands occupied by such person, association, or corporation, and the cost of the clerical work necessary to be done in the office of the said United States marshal, ex officio surveyor-general; and on the receipt of such estimate from the United States marshal, ex officio surveyor-general, the said person, association, or corporation shall deposit the amount in a United States depository, as is required by section numbered twenty-four hundred and one, Revised Statutes, relating to deposits for surveys.

That on the receipt by the United States marshal, ex officio surveyor-general, of the said certificates of deposit, he shall employ a competent person to make such survey, under such rules and regulations as may be adopted by the Secretary of the Interior, who shall make his return of his field notes and maps to the office of the said United States marshal, ex officio surveyor-general; and the said United States marshal, ex officio surveyor-general, shall cause the said field notes and plats of such survey to be examined, and, if correct, approve the same, and shall transmit certified copies of such maps and plats to the office of the Commissioner of the General Land Office.

That when the said field notes and plats of said survey shall have been approved by the said Commissioner of the General Land Office, he shall notify such person, association, or corporation, who shall then within six months after such notice, pay to the said United States marshal, ex officio surveyor-general, for such land, and patent shall issue for the same.

SEC. 14. That none of the provisions of the last two preceding sections of this act shall be so construed as to warrant the sale of any lands belonging to the United States which shall contain coal or the precious metals, or any town site, or which shall be occupied by the United States for public purposes, or which shall be reserved for such purposes, or to which the natives of Alaska have prior rights by virtue of actual occupation, or which shall be selected by the United States Commissioner of Fish and Fisheries on the islands of Kadiak and Afognak for the purpose of establishing fish-culture stations. And all tracts of land not exceeding six hundred and forty acres in any one tract now occupied as missionary stations in said District of Alaska are hereby excepted from the operation of the last three preceding sections of this act. No portion of the islands of the Pribylov Group or the Seal Islands of Alaska shall be subject to sale under this act; and the

United States reserves, and there shall be reserved in all patents issued under the provisions of the last two preceding sections the right of the United States to regulate the taking of salmon and to do all things necessary to protect and prevent the destruction of salmon in all the waters of the lands granted frequented by salmon.

SEC. 15. That until otherwise provided by law the body of lands known as Annette Islands, situated in Alexander Archipelago in Southeastern Alaska, on the north side of Dixon's Entrance, be, and the same is hereby, set apart as a reservation for the use of the Metlakahtla Indians, and those people known as Metlakahtlans who have recently emigrated from British Columbia to Alaska, and such other Alaskan natives as may join them, to be held and used by them in common, under such rules and regulations, and subject to such restrictions as may be prescribed from time to time by the Secretary of the Interior.

SEC. 16. That town-site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof and when entry has been made or patent issued for such townsites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: *Provided*, That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.

SEC. 17. That reservoir sites located or selected and to be located and selected under the provisions of "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes," and amendments thereto, shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs; excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs, and that the provisions of "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes," which reads as follows, viz: "No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws," shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not include lands entered or sought to be entered under mineral land laws.

SEC. 18. That the right of way through the public lands and reservations of the United States is hereby granted to any canal or ditch company formed for the purpose of irrigation and duly organized under the laws of any State or Territory, which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of the ground occupied by the water of the reservoir and of the canal and its laterals, and fifty feet on each side of the marginal limits thereof; also the right to take, from the public lands adjacent to the line of the

canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: *Provided*, That no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation, and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories.

SEC. 19. That any canal or ditch company desiring to secure the benefits of this act shall, within twelve months after the location of ten miles of its canal, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such rights of way shall pass shall be disposed of subject to such right of way. Whenever any person or corporation, in the construction of any canal, ditch, or reservoir, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 20. That the provisions of this act shall apply to all canals, ditches, or reservoirs, heretofore or hereafter constructed, whether constructed by corporations, individuals, or association of individuals, on the filing of the certificates and maps herein provided for. If such ditch, canal, or reservoir has been or shall be constructed by any individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior and with the register of the land office where said land is located a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats heretofore filed shall have the benefits of this act from the date of their filing as though filed under it: *Provided*, That, if any section of said canal or ditch shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture.

SEC. 21. That nothing in this act shall authorize such canal or ditch company to occupy such right of way, except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch.

SEC. 22. That the section of land reserved for the benefit of the Dakota Central Railroad Company on the west bank of the Missouri River, at the mouth of Bad River, as provided by section sixteen of "An act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," approved March second, eighteen hundred and eighty-nine, shall be subject to entry under the town-site law only.

SEC. 23. That in all cases where second entries of land on the Osage Indian trust and diminished reserve lands in Kansas, to which at the time there were no adverse claims, have been made and the law complied with as to residence and improvement, said entries be, and the same are hereby, confirmed, and in all cases where persons were actual settlers and residing upon their claims upon said Osage Indian trust

and diminished reserve lands in the State of Kansas, on the ninth day of May, eighteen hundred and seventy-two, and who have made subsequent preemption entries either upon public or upon said Osage Indian trust and diminished reserve lands, upon which there were no legal prior adverse claims at the time, and the law complied with as to settlement, said subsequent entries be, and the same are hereby, confirmed.

SEC. 24. That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations; and the President shall, by public proclamation, declare the establishment of such reservation and the limits thereof.

Approved, March 3, 1891. (26 Stat., 1095.)

[No. 45.]

FOR RELIEF OF SETTLERS ON PUBLIC LANDS.

AN ACT to amend Section two of an act approved May fourteenth, eighteen hundred and eighty, being "An act for the relief of settlers on public lands."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two of an act approved May fourteenth, eighteen hundred and eighty, entitled "An act for the relief of settlers on public lands," be, and the same is hereby, amended so as to read as follows:

"SEC. 2. In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any preemption, homestead, or timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant and not to be reported: *Provided further*, That should any such person who has initiated a contest die before the final termination of the same, said contest shall not abate by reason thereof, but his heirs who are citizens of the United States, may continue the prosecution under such rules and regulations as the Secretary of the Interior may prescribe, and said heirs shall be entitled to the same rights under this act that contestant would have been if his death had not occurred.

Approved, July 26, 1892. (27 Stat., 270.)

[No. 46.]

ACT OPENING KICKAPOO LANDS, OKLAHOMA.

AN ACT to ratify and confirm an agreement with the Kickapoo Indians in Oklahoma Territory, and to make appropriations for carrying the same into effect.

* * * * * * *

SEC. 3. That whenever any of the lands, acquired by this agreement shall, by operation of law or proclamation of the President of the United States, be open to settlement or entry, they shall be disposed

of (except sections sixteen and thirty-six in each township thereof) to actual settlers only, under the provisions of the homestead and town-site laws (except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply): *Provided, however*, That each settler on said lands shall, before making a final proof and receiving a certificate of entry, pay to the United States for the land so taken by him, in addition to the fees provided by law, and within five years from the date of the first original entry, the sum of one dollar and fifty cents an acre, one-half of which shall be paid within two years; but the rights of honorably discharged Union soldiers and sailors, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States shall not be abridged, except as to the sum to be paid as aforesaid. Until said lands are opened to settlement by proclamation of the President of the United States, no person shall be permitted to enter upon or occupy any of said lands; and any person violating this provision shall never be permitted to make entry of any of said lands or acquire any title thereto: *Provided*, That any person having attempted to, but for any cause failed to acquire a title in fee under existing law, or who made entry under what is known as the commuted provision of the homestead law, shall be qualified to make homestead entry upon said lands.

Approved, March 3, 1893. (27 Stat., 563.)

[No. 47.]

EXTENSION OF TIME OF PAYMENT GRANTED TO HOMESTEAD SETTLERS IN OKLAHOMA.

AN ACT granting settlers on certain lands in Oklahoma Territory the right to commute their homestead entries and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the homestead settlers on the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe Indian lands in Oklahoma Territory be, and they are hereby, granted an extension of one year within which to make the first payment provided for in section sixteen of the act of Congress approved March third, eighteen hundred and ninety-one, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and ninety-two and for other purposes," and such payment may be made at any time within three years from the date of the entry of such lands.

SEC. 2. That any person entitled by law to take a homestead in said Territory of Oklahoma who has already located and filed upon, or who shall hereafter locate and file upon a homestead within any of the lands in the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe Indian lands and the Public Land Strip in Oklahoma Territory, and who has complied with all the laws relating to such homestead settlement, may receive a patent therefor at the expiration of twelve months from the date of locating upon such homestead, upon payment to the United States of one dollar and fifty cents per acre for the land embodied in such homestead: *Provided*, That homestead settlers in the Pub-

lic Land Strip now Beaver County, Oklahoma, may receive such patent upon the payment to the United States of the sum of one dollar and twenty-five cents per acre.

SEC. 3. That all acts in conflict with this act are hereby repealed.

Approved, October 20, 1893. (28 Stat., 3.)

[No. 48.]

EXTENSION OF TIME WITHIN WHICH TO PURCHASE FORFEITED RAILROAD LANDS.

AN ACT to amend an act entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes," approved September twenty-ninth, eighteen hundred and ninety, and the several Acts amendatory thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of an Act entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes," approved September twenty-ninth, eighteen hundred and ninety, and the several acts amendatory thereof, be, and the same is, amended so as to extend the time within which persons entitled to purchase lands forfeited by said Act shall be permitted to purchase the same, in the quantities and upon the terms provided in said section, at any time prior to January first, eighteen hundred and ninety-seven: *Provided*, That nothing herein contained shall be so construed as to interfere with any adverse claim that may have attached to the lands or any part thereof.

Approved, December 12, 1893. (28 Stat., 15.)

[No. 49.]

EXTENDING THE TIME FOR MAKING FINAL PROOF AND PAYMENT.

AN ACT extending the time for final proof and payment on lands claimed under the public land laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for making final proof and payment for all lands located under the homestead and desert land laws of the United States, proof and payment of which has not yet been made, be, and the same is hereby, extended for the period of one year from the time proof and payment would become due under existing laws.

SEC. 2. That the time of making final payments on entries under the preemption Act is hereby extended for one year from the date when the same becomes due in all cases where preemption entrymen are unable to make final payments from causes which they can not control, evidence of such inability to be subject to the regulations of the Secretary of the Interior.

Approved, July 26, 1894. (28 Stat., 123.)

[No. 50.]

EXTENSION OF TIME WITHIN WHICH TO MAKE PROOF IN DESERT LAND CASES.

AN ACT for the relief of persons who have filed declarations of intention to enter desert lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where declarations of intention to enter desert lands have been filed, and the four years' limit within which final proof may be made had not expired prior to January first, eighteen hundred and ninety-four, the time within which such proof may be made in each such case is hereby extended to five years from the date of filing the declaration; and the requirement that the persons filing such declarations shall expend the full sum of one dollar per acre during each year toward the reclamation of the land is hereby suspended for the year eighteen hundred and ninety-four, and such annual expenditure for that year, and the proof thereof, is hereby dispensed with: *Provided*, That within the period of five years from filing the declaration satisfactory proof be made to the register and receiver of the reclamation and cultivation of such land to the extent and cost and in the manner provided by existing law, except as to said year eighteen hundred and ninety-four, and upon the payment to the receiver of the additional sum of one dollar per acre, as provided in existing law, a patent shall issue as therein provided.

Approved, August 4, 1894. (28 Stat., 226.)

[No. 51.]

ENTRIES FOR BUILDING STONE—EXTENSION OF ACT OF JUNE 3, 1878.

AN ACT to authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims: *Provided*, That lands reserved for the benefit of the public schools or donated to any State shall not be subject to entry under this act.

SEC. 2. That an act entitled "An act for the sale of timber lands in the State of California, Oregon, Nevada, and Washington Territory," approved June third, eighteen hundred and seventy-eight, be, and the same is hereby, amended by striking out the words "States of California, Oregon, Nevada, and Washington Territory" where the same occur in the second and third lines of said act, and insert in lieu thereof the words, "public-land States," the purpose of this act being to make said act of June third, eighteen hundred and seventy-eight, applicable to all the public-land States.

SEC. 3. That nothing in this act shall be construed to repeal section twenty-four of the act entitled "An act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one.

Approved, August 4, 1892. (27 Stat., 348.)

[No. 52.]

MODIFICATION OF FINAL PROOF REQUIRED IN TIMBER-CULTURE ENTRIES—RELIEF TO PURCHASERS OF TRACTS COVERED BY CERTAIN INVALID SOLDIERS' ADDITIONAL HOMESTEAD ENTRIES.

AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-four, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

That section one of an act entitled "An act to repeal timber culture laws and for other purposes," approved March third, eighteen hundred and ninety-one, be, and hereby is amended by adding the following words to the fourth proviso thereof: "*And provided further*, That if trees, seeds, or cuttings were in good faith planted as provided by law and the same and the land upon which so planted were thereafter in good faith cultivated as provided by law for at least eight years by a person qualified to make entry and who has a subsisting entry under the timber culture laws, final proof may be made without regard to the number of trees that may have been then growing on the land." *And provided further*, That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate.

* * * * * * *

Approved, March 3, 1893. (27 Stat., 593.)

[No. 53.]

TO AMEND SECTION 2324 REVISED STATUTES.

AN ACT to amend section numbered twenty-three hundred and twenty-four of the Revised Statutes of the United States relating to mining claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section numbered twenty-three hundred and twenty-four of the Revised Statutes of the United States, which require that on each claim located after the tenth day of May, eighteen hundred and seventy-two, and until patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, be suspended for the year eighteen hundred and ninety-four, so that no mining claim which has been regularly located and recorded as required by the local laws and mining regulations shall be subject to forfeiture for nonperformance of the annual assessment for the year

eighteen hundred and ninety-four: *Provided*, That the claimant or claimants of any mining location, in order to secure the benefits of this Act, shall cause to be recorded in the office where the location notice or certificate is filed on or before December thirty-first, eighteen hundred and ninety-four, a notice that he or they in good faith intend to hold and work said claim: *Provided, however*, That the provisions of this Act shall not apply to the State of South Dakota.

SEC. 2. That this act shall take effect from and after its passage.

Approved, July 18, 1894. (28 Stat., 114.)

[No. 54.]

SURVEY OF PUBLIC LANDS AT REQUEST OF PERSONS OR ASSOCIATIONS OF PERSONS—SPECIAL DEPOSITS THEREFOR.

AN ACT to amend sections twenty-four hundred and one and twenty-four hundred and three of the Revised Statutes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-four hundred and one of the Revised Statutes of the United States is hereby amended so as to read as follows:

"SEC. 2401. When the settlers in any township not mineral or reserved by the Government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of the surveyor-general and shall file an application therefor in writing, and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, to survey such township or such public lands owned by said grantees of the Government, and make return therefor to the general and proper local land office: *Provided*, That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for township and subdivisional surveys."

SEC. 2. That section twenty-four hundred and three of the Revised Statutes of the United States as heretofore amended is hereby amended so as to read as follows:

"SEC. 2403. Where settlers or owners or grantees of public lands make deposits in accordance with the provisions of section twenty-four hundred and one, as hereby amended, certificates shall be issued for such deposits which may be used by settlers in part payment for the lands settled upon by them, the survey of which is paid for out of such deposits, or said certificates may be assigned by indorsement and may be received by the Government in payment for any public lands of the United States in the States where the surveys were made, entered or to be entered under the laws thereof."

SEC. 3. That all laws and parts of laws inconsistent with this act be, and the same are hereby, repealed.

Received by the President, August 8, 1894.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

August 20, 1894. (28 Stat., 423.)

[No. 55.]

GRANTING THE RIGHT OF COMMUTATION TO HOMESTEAD SETTLERS IN OKLAHOMA.

AN ACT making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 19. That the right of commutation is hereby extended to all bona fide homestead settlers on the lands in Oklahoma Territory opened to settlement under the provisions of the act of Congress entitled "An act making appropriations for current and contingent expenses and fulfilling treaty stipulations with Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-four," approved March third, eighteen hundred and ninety-three, and the President's proclamation in pursuance thereof, after fourteen months from the date of settlement upon the full payment for the lands at the prices provided in said act.

* * * * * * *

Approved, August 15, 1894. (28 Stat., 336.)

[No. 56.]

SOLDIERS' ADDITIONAL HOMESTEAD CERTIFICATES—VALID IN THE HANDS OF BONA FIDE PURCHASERS.

AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

That all soldiers' additional homestead certificates heretofore issued under the rules and regulations of the General Land Office under section twenty-three hundred and six of the Revised Statutes of the

United States, or in pursuance of the decisions or instructions of the Secretary of the Interior, of date March tenth, eighteen hundred and seventy-seven, or any subsequent decisions or instructions of the Secretary of the Interior or the Commissioner of the General Land Office, shall be, and are hereby, declared to be valid, notwithstanding any attempted sale or transfer thereof; and where such certificates have been or may hereafter be sold or transferred, such sale or transfer shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value; and all entries heretofore or hereafter made with such certificates by such purchasers shall be approved, and patent shall issue in the name of the assignees.

* * * * * * *

Approved, August 18, 1894. (28 Stat., 397.)

[No. 57.]

OPENING OF ABANDONED MILITARY RESERVATIONS—PREFERENCE RIGHT GIVEN TO SETTLERS RESIDING THEREON.

AN ACT to provide for the opening of certain abandoned military reservations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all lands not already disposed of included within the limits of any abandoned military reservation heretofore placed under the control of the Secretary of the Interior for disposition under the act approved July fifth, eighteen hundred and eighty-four, the disposal of which has not been provided for by a subsequent act of Congress, where the area exceeds five thousand acres, except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be reserved for some public use, are hereby opened to settlement under the public-land laws of the United States and a preference right of entry for a period of six months from the date of this act shall be given all bona fide settlers who are qualified to enter under the homestead law and have made improvements and are now residing upon any agricultural lands in said reservations, and for a period of six months from the date of settlement when that shall occur after the date of this act: *Provided*, That persons who enter under the homestead law shall pay for such lands not less than the value heretofore or hereafter determined by appraisement, nor less than the price of the land at the time of the entry, and such payment may, at the option of the purchaser, be made in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior.

SEC. 2. That nothing contained in this act shall be construed to suspend or to interfere with the operation of the said act approved July fifth, eighteen hundred and eighty-four, as to all lands included in abandoned military reservations hereafter placed under the control of the Secretary of the Interior for disposal, and all appraisements required by the first section of this act shall be in accordance with the provisions of said act of July fifth, eighteen hundred and eighty-four.

Approved, August 23, 1894. (28 Stat., 491.)

[No. 58.]

MILITARY BOUNTY LAND WARRANTS—LOCATION OF.

AN ACT to provide for the location and satisfaction of outstanding military bounty land warrants and certificates of location under section three of the Act approved June second, eighteen hundred and fifty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the benefits now given thereto by law, all unsatisfied military bounty land warrants under any act of Congress, and unsatisfied indemnity certificates of location under the act of Congress approved June second, eighteen hundred and fifty-eight, whether heretofore or hereafter issued, shall be receivable at the rate of one dollar and twenty-five cents per acre in payment or part payment for any lands entered under the desert land law of March third, eighteen hundred and eighty-[*seventy-*] seven, entitled "An act to provide for the sale of desert lands in certain States and Territories," and the amendments thereto, the timber-culture law of March third, eighteen hundred and seventy-three, entitled "An act to encourage the growth of timber on the Western prairies," and the amendments thereto; the timber and stone law of June third, eighteen hundred and seventy-eight, entitled "An act for the sale of timber lands in the States of California, Oregon, Nebraska, and Washington Territory," and the amendments thereto, or for lands which may be sold at public auction, except such lands as shall have been purchased from any Indian tribe within ten years last past.

Approved, December 13, 1894. (28 Stat., 594.)

[No. 59.]

AMENDMENT TO SECTION 3, ACT OF MARCH 2, 1889.

AN ACT to amend section three of an act to withdraw certain public lands from private entry, and for other purposes, approved March second, eighteen hundred and eighty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of the said act of March second, eighteen hundred and eighty-nine, be amended by adding thereto the following provision: That if any such settler has heretofore forfeited his or her entry for any of said reasons, such person shall be permitted to make entry of not to exceed a quarter section on any public land subject to entry under the homestead law, and to perfect title to the same under the same conditions in every respect as if he had not made the former entry.

Approved, December 29, 1894. (28 Stat., 599.)

[No. 60.]

GRANTING RELIEF, ON ACCOUNT OF FOREST FIRES, TO SETTLERS IN WISCONSIN, MINNESOTA, AND MICHIGAN.

AN ACT for the relief of homestead settlers in Wisconsin, Minnesota, and Michigan.

Whereas during the summer and autumn of eighteen hundred and ninety-four extensive forest fires prevailed in northern Wisconsin, Minnesota, and Michigan, resulting in the death of many homesteaders and their families, the destruction of their property and effects, and of

much of the green timber growing upon them, which homesteads are valuable chiefly for the timber standing and growing on them; and,

Whereas under existing law homesteaders are not allowed to cut or sell green or burned timber, except for the purpose of clearing and improving, and all burned timber not cut within a short period will become worthless and a loss to the settler and the Government: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all such persons actually occupying homesteads in said States of Wisconsin, Minnesota, and Michigan at the time of such fires, upon claims under the laws of the United States, on lands of the United States, whose property and buildings were destroyed by such fires, and the heirs of all such persons who perished by such fires, and all persons who by reason of such fires and loss of property were obliged to leave their homesteads, are hereby granted two years' additional time in which to make final proof. And temporary absence for any period within two years from the date of this Act shall be deemed constructive possession and residence, but shall not be deducted from the time required to make final proof.

SEC. 2. That all persons whose property was destroyed by such fires, and the heirs of all persons who were actual occupants of the homesteads at the time of the fire, and who lost their lives in and by that fire, may, by proving such actual occupancy at the date of such fires, make proof showing compliance with the law up to the date of the fire, and shall make payment at the minimum price under existing statutes, in the same manner as if such claimants were alive, and upon receipt of such proof of loss of property by such fires, or death of the claimant, heirs surviving, and upon payment as aforesaid, a patent shall be issued to such claimant, or his or her heirs.

SEC. 3. That the claimant upon any homestead, who by reason of not having lived thereon the necessary length of time to enable him to commute under section twenty-three hundred and one of the Revised Statutes as amended by the act of March third, eighteen hundred and ninety-one, his heirs, executor, administrator, or guardian of his minor heirs, may, when the quantity of timber destroyed upon his or her homestead shall not exceed seventy-five thousand feet of merchantable green timber, file an estimate in the land office where such homestead was entered with such reasonable proofs as the Commissioner of Public Lands may prescribe, as to the quantity of timber destroyed upon any sectional subdivision, and thereupon the register and receiver may, under the direction of the Commissioner of Public Lands, issue a license or permit to cut the burned timber on any homestead or sectional fraction thereof, upon payment of the sum of one dollar and twenty-five cents per acre for such sectional subdivision, and the Government shall issue a patent for the same to the claimant or his or her heirs.

Approved, January 19, 1895. (28 Stat., 634.)

[No. 61.]

RIGHT OF WAY GRANTED FOR TRAMROADS, CANALS, OR RESERVOIRS.

AN ACT to permit the use of the right of way through the public lands for tramroads, canals, and reservoirs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and hereby is, authorized and empowered, under general

regulations to be fixed by him, to permit the use of the right of way through the public lands of the United States, not within the limits of any park, forest, military or Indian reservation, for tramroads, canals, or reservoirs to the extent of the ground occupied by the water of the canals and reservoirs and fifty feet on each side of the marginal limits thereof; or fifty feet on each side of the center of the tramroad, by any citizen or any association of citizens of the United States engaged in the business of mining or quarrying or of cutting timber and manufacturing lumber.

Approved, January 21, 1895. (28 Stat., 635.)

[No. 62.]

ABANDONED MILITARY RESERVATIONS—EXTENDING PROVISIONS OF THE ACT OF AUGUST 23, 1894.

AN ACT to amend and extend the provisions of an act entitled "An act to provide for the opening of certain abandoned military reservations, and for other purposes," approved August twenty-third, eighteen hundred and ninety-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act approved August twenty-third, eighteen hundred and ninety-four, entitled "An act to provide for the opening of certain abandoned military reservations, and for other purposes," are hereby extended to all abandoned military reservations which were placed under the control of the Secretary of the Interior under any law in force prior to the act of July fifth, eighteen hundred and eighty-four.

SEC. 2. That the preference right of entry given to actual settlers by the terms of the act to which this is an amendment shall, so far as the lands to which the provisions of said act are extended, take effect and continue for six months from the date of this amendatory act.

Approved, February 15, 1895. (28 Stat., 664.)

[No. 63.]

SALE OF ISOLATED OR DISCONNECTED TRACTS.

AN ACT to amend section twenty-four hundred and fifty-five of the Revised Statutes of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-four hundred and fifty-five of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"SEC. 2455. It shall be lawful for the Commissioner of the General Land Office to order into market and sell for not less than one dollar and twenty-five cents per acre any isolated or disconnected tract or parcel of the public domain less than one quarter section which in his judgment it would be proper to expose to sale after at least thirty days' notice by the land officers of the district in which such lands may be situated: *Provided*, That lands shall not become so isolated or disconnected until the same have been subject to homestead entry for a

period of three years after the surrounding land has been entered, filed upon, or sold by the Government: *Provided*, That not more than one hundred and sixty acres shall be sold to any one person."

Approved, February 26, 1895. (28 Stat., 687.)

[No. 64.]

GRANTING CHIEF JUSTICE OF UNITED STATES COURTS IN TERRITORIES POWER TO APPOINT COMMISSIONERS TO TAKE PROOF IN LAND CASES.

AN ACT granting chief justice of United States courts in Territories power to appoint commissioners to take proof in land cases, and so forth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the chief justice of the court exercising Federal jurisdiction in the Territories shall have power to appoint commissioners in the several judicial districts, to be known when appointed as United States court commissioners.

SEC. 2. That said commissioners shall have power, and it shall be their duty on application by proper person, to administer the oaths in preliminary affidavits and final proofs required under the homestead, preemption, timber culture, and desert-land laws in their respective districts, in like manner as provided for in reference to United States circuit court commissioners, in the act of May twenty-sixth, eighteen hundred and ninety. Twenty-sixth Statutes at Large, page one hundred and twenty-one.

SEC. 3. That no commissioner shall be appointed who resides within thirty miles of any local land office, nor shall any commissioner be appointed who resides within thirty miles of any other commissioner.

SEC. 4. That this Act shall take effect from its passage.

Approved, March 2, 1895. (28 Stat., 744.)

[No. 65.]

EXTENSION OF TIME TO SETTLERS.

AN ACT making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

That the homestead settlers on the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe Indian lands in Oklahoma Territory be, and they are hereby, granted an extension of one year within which to make the first payment provided for in section sixteen of the act of Congress approved March third, eighteen hundred and ninety-one, entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations

with various Indian tribes for the year ending June thirtieth, eighteen hundred and ninety-two, and for other purposes," and such payment may be made at any time within five years from the date of the entry of such lands. And that the like extension of one year on the first payment required to be made, when payable in installments, is hereby granted to all homestead settlers on and purchasers of all ceded Indian reservations in the States of North Dakota, South Dakota, Nebraska, Montana, and Idaho.

* * * * * * *

Approved, March 2, 1895. (28 Stat., 901.)

[No. 66.]

AMENDMENT OF SECTION 4, ACT OF MARCH 3, 1887, IN REGARD TO PRICE OF LAND PURCHASED THEREUNDER.

CHAP. 18.—AN ACT to amend section four of an act to provide for the adjustment of land grants made by Congress to aid in the construction of railroads and for the forfeiture of unearned lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section four of an act entitled "An act to provide for the adjustment of land grants made by Congress to aid in the construction of railroads and for the forfeiture of unearned lands, and for other purposes," approved March third, eighteen hundred and eighty-seven, be, and the same is hereby, amended by adding thereto the following proviso: "*Provided further*, That where such purchasers, their heirs or assigns, have paid only a portion of the purchase price to the company, which is less than the Government price of similar lands, they shall be required, before the delivery of patent for their lands, to pay to the Government a sum equal to the difference between the portion of the purchase price so paid and the Government price, and in such case the amount demanded from the company shall be the amount paid to it by such purchaser."

Approved, February 12, 1896. (29 Stat., 6.)

[No. 67.]

EXTENSION OF TIME TO BRING SUITS TO VACATE AND ANNUL LAND PATENTS, ISSUED UNDER RAILROAD OR WAGON ROAD GRANTS.

CHAP. 39.—AN ACT to provide for the extension of the time within which suits may be brought to vacate and annul land patents, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That suits by the United States to vacate and annul any patent to lands heretofore erroneously issued under a railroad or wagon road grant shall only be brought within five years from the passage of this act, and suits to vacate and annul patents hereafter issued shall only be brought within six years after the date of the issuance of such patents, and the limitation of section eight of chapter five hundred and sixty-one of the acts of the second

session of the Fifty-first Congress and amendments thereto is extended accordingly as to the patents herein referred to. But no patent to any lands held by a bona fide purchaser shall be vacated or annulled, but the right and title of such purchaser is hereby confirmed: *Provided*, That no suit shall be brought or maintained, nor shall recovery be had for lands or the value thereof, that were certified or patented in lieu of other lands covered by a grant which were lost or relinquished by the grantee in consequence of the failure of the Government or its officers to withdraw the same from sale or entry.

SEC. 2. That if any person claiming to be a bona fide purchaser of any lands erroneously patented or certified shall present his claim to the Secretary of the Interior prior to the institution of a suit to cancel a patent or certification, and if it shall appear that he is a bona fide purchaser, the Secretary of the Interior shall request that suit be brought in such case against the patentee, or the corporation, company, person, or association of persons for whose benefit the certification was made, for the value of said land, which in no case shall be more than the minimum Government price thereof, and the title of such claimant shall stand confirmed. An adverse decision by the Secretary of the Interior on the bona fides of such claimant shall not be conclusive of his rights, and if such claimant, or one claiming to be a bona fide purchaser, but who has not submitted his claim to the Secretary of the Interior, is made a party to such suit, and if found by the court to be a bona fide purchaser, the court shall decree a confirmation of the title, and shall render a decree in behalf of the United States against the patentee, corporation, company, person, or association of persons for whose benefit the certification was made for the value of the land as hereinbefore provided. Any bona fide purchaser of lands patented or certified to a railroad company, and who is not made a party to such suit, and who has not submitted his claim to the Secretary of the Interior, may establish his right as such bona fide purchaser in any United States court having jurisdiction of the subject-matter, or at his option, as prescribed in sections three and four of chapter three hundred and seventy-six of the acts of the second session of the Forty-ninth Congress.

SEC. 3. That if at any time prior to the institution of suit by the Attorney-General to cancel any patent or certification of lands erroneously patented or certified a claim or statement is presented to the Secretary of the Interior by or on behalf of any person or persons, corporation or corporations, claiming that such person or persons, corporation or corporations, is a bona fide purchaser or are bona fide purchasers of any patented or certified land by deed or contract, or otherwise, from or through the original patentee or corporation to which patent or certification was issued, no suit or action shall be brought to cancel or annul the patent or certification for said land until such claim is investigated in said Department of the Interior; and if it shall appear that such person or corporation is a bona fide purchaser as aforesaid, or that such persons or corporations are such bona fide purchasers, then no such suit shall be instituted and the title of such claimant or claimants shall stand confirmed; but the Secretary of the Interior shall request that suit be brought in such case against the patentee, or the corporation, company, person, or association of persons for whose benefit the patent was issued or certification was made for the value of the land as hereinbefore specified.

Approved, March 2, 1896. (29 Stat., 42.)

[No. 68.]

PRESENTING OF FINAL PROOFS, TIMBER-CULTURE CLAIMS.

CHAP. 40.—AN ACT relating to final proof in timber-culture entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That timber-culture claimants shall not be required, in making final proof, to appear at the land office to which proof is to be presented or before an officer designated by the act of May twenty-sixth, eighteen hundred and ninety, within the county in which the land is situated; but such claimant may have his or her personal evidence taken by a United States court commissioner or a clerk of any court of record under such rules and regulations as the Secretary of the Interior may prescribe.

Approved, March 4, 1896. (29 Stat., 43.)

[No. 69.]

NEW ORLEANS PACIFIC RAILWAY COMPANY MAY RELINQUISH LANDS IN FAVOR OF SETTLERS, AND MAKE SELECTIONS IN LIEU THEREOF.

CHAP. 98.—AN ACT for the relief of settlers upon lands within the indemnity limits of the grant to the New Orleans Pacific Railway Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That authority be, and is hereby, given the New Orleans Pacific Railroad to relinquish any lands within the indemnity limits of its grant, which by decision of the Land Department of the Government has been awarded it, in favor of any settler entitled to the right of entry under the laws of the United States who has been allowed to make entry thereof, or who has resided upon and improved the same for five years, and to select in lieu thereof an equal quantity of other lands, from any of the public lands not mineral, and within the limits of its grant and not otherwise appropriated at the date of selection, to which it shall receive title the same as though originally granted.

Approved, April 14, 1896. (29 Stat., 91.)

[No. 70.]

CIRCUIT COURT COMMISSIONERS ABOLISHED AND OTHER COMMISSIONERS PROVIDED FOR, ETC.

CHAP. 252.—AN ACT making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, and for other purposes.

* * * * * * *

SEC. 19. That the terms of office of all commissioners of the circuit courts heretofore appointed shall expire on the thirtieth day of June, eighteen hundred and ninety-seven; and such office shall on that day cease to exist, and said commissioners shall then deposit all the records and other official papers appertaining to their offices in the office of the clerk of the circuit court by which they were appointed. All proceedings pending, returnable, unexecuted, or unfinished at said date before any such commissioner shall be continued and disposed of according to law by such commissioner appointed as herein provided, as may be des-

ignated by the district court for that purpose. It shall be the duty of the district court of each judicial district to appoint such number of persons, to be known as United States commissioners, at such places in the district as may be designated by the district court, which United States commissioners shall have the same powers and perform the same duties as are now imposed upon commissioners of the circuit courts. The appointment of such United States commissioners shall be entered of record in the district courts, and notice thereof at once given by the clerk to the Attorney-General. That such United States commissioners shall hold their offices, respectively, for the term of four years, but they shall be at any time subject to removal by the district court; and no person shall at any time be a clerk or deputy clerk of a United States court and a United States commissioner without the approval of the Attorney-General: *Provided*, That all acts and parts of acts applicable to commissioners of the circuit courts, except as to appointment and fees, shall be applicable to United States commissioners appointed under this act. Warrants of arrest for violations of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector or deputy collector of internal revenue, or revenue agent or private citizen, but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney. That United States commissioners and all clerks of United States courts are hereby authorized to administer oaths.

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Approved, May 28, 1896. (29 Stat., 184.)

[No. 71.]

CONFIRMATION OF CERTAIN HOMESTEAD ENTRIES PREMATURELY COMMUTED, ETC.

CHAP. 312.—AN ACT relating to commutations of homestead entries, and to confirm such entries when commutation proofs were received by local land officers prematurely.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall appear to the Commissioner of the General Land Office that an error has heretofore been made by the officers of any local land office in receiving premature commutation proofs under the homestead laws, and that there was no fraud practiced by the entryman in making such proofs, and final payment has been made and a final certificate of entry has been issued to the entryman, and that there are no adverse claimants to the land described in the certificates of entry whose rights originated prior to making such final proofs, and that no other reason why the title should not vest in the entryman exists except that the commutation was made less than fourteen months from the date of the homestead settlement, and that there was at least six months' actual residence in good faith by the homestead entryman on the land prior to such commutation, such certificates of entry shall be in all things confirmed to the entryman, his heirs, and legal representatives, as of the date of such final certificate of entry and a patent issue thereon; and the title so patented shall inure to the benefit of any grantee or transferee in good faith of such entryman subsequent to the date of such final cer-

tificate: *Provided*, That this act shall not apply to commutation and homestead entries on which final certificates have been issued, and which have heretofore been canceled when the lands made vacant by such cancellation have been reentered under the homestead act.

SEC. 2. That all commutations of homestead entries shall be allowed after the expiration of fourteen months from date of settlement.

SEC. 3. That all acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

SEC. 4. That this act shall take effect and be in force from and after its passage and approval.

Approved, June 3, 1896. (29 Stat., 197.)

[No. 72.]

SETTLERS ON NORTHERN PACIFIC SECOND INDEMNITY GRANT, MINNESOTA, ALLOWED OTHER LANDS FOR CANCELED ENTRIES.

CHAP. 316.—AN ACT for the relief of settlers on the Northern Pacific Railroad indemnity lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That those persons, their heirs, or legal representatives, who, between the fifteenth day of August, anno Domini eighteen hundred and eighty-seven, and the first day of January, anno Domini eighteen hundred and eighty-nine, settled upon and made final proof and entry, under the homestead or preemption laws, of lands within the so-called second indemnity belt of the Northern Pacific Railway Company's grant in the State of Minnesota, which entries were afterwards, without their fault, canceled, upon establishing the facts before the register and receiver of the local land office, in such mode and under such rules as may be prescribed by the Secretary of the Interior, shall be allowed to make final homestead entry, and receive a patent therefor, of a quantity of land of any of the unappropriated public lands of the United States subject to homestead entry, equal in acreage to the land proved up and entered in the said second indemnity belt, as aforesaid, without being required to make any settlement or improvement upon or cultivation of such land so entered prior to such entry; and those persons, their heirs or legal representatives, who, within the period aforesaid for the space of six months settled upon, improved, and cultivated any of said indemnity lands with a view of entering the same under the homestead or preemption laws, being competent to make such entries, and who were not permitted to make such entries, upon establishing these facts before the register and receiver of the local land office, in such mode and under such rules as the Secretary of the Interior may prescribe, shall be allowed to enter under the homestead laws of the United States a quantity of land of the unappropriated public lands of the United States, subject to homestead entry, equal in amount to the land settled upon, improved, and cultivated, as aforesaid, and under the homestead entry so made, shall, when making proof and final entry, receive credit for the settlement, improvement, and cultivation made upon the said indemnity land as aforesaid: *Provided*, That the law in force in eighteen hundred and eighty-nine governing the commutation of homestead entries shall apply to the commutation of entries under this section.

SEC. 2. That those who are entitled to make the homestead entries prescribed in the preceding section may make such entries of any of

the agricultural lands embraced in the provisions of an act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, upon condition of paying for such lands the price prescribed in said act.

SEC. 3. That the right of homestead entry conferred by the provisions of this act shall not be assignable, and no conveyance, sale, or transfer of the land so entered shall be valid or of any effect if made before patent has issued.

Approved, June 3, 1896. (29 Stat., 245.)

[No. 73.]

ENTRY OF LANDS IN GREER COUNTY, OKLAHOMA.

CHAP. 62.—AN ACT to provide for the entry of lands in Greer County, Oklahoma, to give preference rights to settlers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person qualified under the homestead laws of the United States, who, on March sixteenth, eighteen hundred and ninety-six, was a bona fide occupant of land within the territory established as Greer County, Oklahoma, shall be entitled to continue his occupation of such land with improvements thereon, not exceeding one hundred and sixty acres, and shall be allowed six months preference right from the passage of this act within which to initiate his claim thereto, and shall be entitled to perfect title thereto under the provisions of the homestead law, upon payment of land office fees only, at the expiration of five years from the date of entry, except that such person shall receive credit for all time during which he or those under whom he claims shall have continuously occupied the same prior to March sixteenth, eighteen hundred and ninety-six. Every such person shall also have the right, for six months prior to all other persons, to purchase at one dollar an acre, in five equal annual payments, any additional land of which he was in actual possession on March sixteenth, eighteen hundred and ninety-six, not exceeding one hundred and sixty acres, which, prior to said date, shall have been cultivated, purchased, or improved by him. When any person entitled to a homestead or additional land, as above provided, is the head of a family, and though still living, shall not take such homestead or additional land, within six months from the passage of this act, any member of such family over the age of twenty-one years, other than husband or wife, shall succeed to the right to take such homestead or additional land for three months longer, and any such member of the family shall also have the right to take, as before provided, any excess of additional land actually cultivated or improved prior to March sixteenth, eighteen hundred and ninety-six above the amount to which such head of the family is entitled, not to exceed one hundred and sixty acres to any one person thus taking as a member of such family.

In case of the death of any settler who actually established residence and made improvement on land in said Greer County prior to March sixteenth, eighteen hundred and ninety-six, the entry shall be treated as having accrued at the time the residence was established, and sections twenty-two hundred and ninety-one and twenty-two hundred and ninety-two of the Revised Statutes shall be applicable thereto.

Any person entitled to such homestead or additional land shall have the right prior to January first, eighteen hundred and ninety-seven, from the passage of this act to remove all crops and improvements he may have on land not taken by him.

SEC. 2. That all land in said county not occupied, cultivated, or improved, as provided in the first section hereof, or not included within the limits of any town site or reserve, shall be subject to entry to actual settlers only, under the provisions of the homestead law.

SEC. 3. That the inhabitants of any town located in said county shall be entitled to enter the same as a town site under the provisions of sections twenty-three hundred and eighty-seven, twenty-three hundred and eighty-eight, and twenty-three hundred and eighty-nine of the Revised Statutes of the United States: *Provided*, That all persons who have made or own improvements on any town lots in said county made prior to March sixteenth, eighteen hundred and ninety-six, shall have the preference right to enter said lots under the provisions of this act and of the general town-site laws.

SEC. 4. Sections numbered sixteen and thirty-six are reserved for school purposes as provided in laws relating to Oklahoma, and sections thirteen and thirty-three in each township are reserved for such purpose as the legislature of the future State of Oklahoma may prescribe. That whenever any of the lands reserved for school or other purposes under this act, or under the laws of Congress relating to Oklahoma, shall be found to have been occupied by actual settlers or for town-site purposes or homesteads prior to March sixteenth, eighteen hundred and ninety-six, an equal quantity of indemnity lands may be selected as provided by law.

SEC. 5. That all lands which on March sixteenth, eighteen hundred and ninety-six, are occupied for church, cemetery, school, or other charitable or voluntary purposes, not for profit, not exceeding two acres in each case, shall be patented to the proper authorities in charge thereof, under such rules and regulations as the Secretary of the Interior shall establish, upon payment of the Government price therefor, excepting for school purposes.

SEC. 6. That there shall be a land office established at Mangum, in said county, upon the passage of this act.

SEC. 7. That the provisions of this act shall apply only to Greer County, Oklahoma, and that all laws inconsistent with the provisions of this act, applying to said territory in said county, are hereby repealed; and all laws authorizing commutations of homesteads in Oklahoma shall apply to Greer County.

SEC. 8. That this act shall take effect from its passage and approval.

Approved, January 18, 1897. (29 Stat., 490.)

[No. 74.]

FORFEITED RAILROAD GRANTS—EXTENSION OF TIME TO PURCHASE.

CHAP. 250.—AN ACT to amend an act entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes," approved September twenty-ninth, eighteen hundred and ninety, and the several acts amendatory thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of an act entitled "An act to forfeit certain lands heretofore granted for the pur-

pose of aiding in the construction of railroads, and for other purposes," approved September twenty-ninth, eighteen hundred and ninety, and the several acts amendatory thereof, be, and the same is, amended so as to extend the time within which persons entitled to purchase lands forfeited by said act shall be permitted to purchase the same, in the quantities and upon the terms provided in said section and the amendments thereto, at any time prior to January first, eighteen hundred and ninety-nine: *Provided*, That nothing herein contained shall be so construed as to interfere with any adverse claim that may have attached to the lands or any part thereof.

Approved, February 18, 1897. (29 Stat., 535.)

[No. 75.]

EXTENSION OF TIME TO SETTLERS IN GREER COUNTY, OKLAHOMA.

CHAP. 8.—AN ACT to amend an act entitled "An act to provide for the entry of lands in Greer County, Oklahoma, to give preference rights to settlers, and for other purposes," approved January eighteenth, eighteen hundred and ninety-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for the exercise of the preference right of entry granted to bona fide occupants of land within the territory established as Greer County, Oklahoma, by section one of an act entitled "An act to provide for the entry of lands in Greer County, Oklahoma, to give preference rights to settlers, and for other purposes," approved January eighteenth, eighteen hundred and ninety-seven, be, and the same is hereby, extended to January first, eighteen hundred and ninety-eight.

Approved, June 23, 1897. (30 Stat., 105.)

[No. 76.]

GRANTING RIGHT OF WAY FOR TRAMROADS, CANALS, ETC.

CHAP. 292.—AN ACT to amend an act to permit the use of the right of way through public lands for tramroads, canals, and reservoirs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to permit the use of the right of way through the public lands for tramroads, canals, and reservoirs, and for other purposes," approved January twenty-first, eighteen hundred and ninety-five, be, and the same is hereby, amended by adding thereto the following:

"That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him, to permit the use of right of way upon the public lands of the United States, not within limits of any park, forest, military, or Indian reservations, for tramways, canals, or reservoirs, to the extent of the ground occupied by the water of the canals and reservoirs, and fifty feet on each side of the marginal limits thereof, or fifty feet on each side of the center line of the tramroad, by any citizen or association of citizens of the United States, for the purposes of furnishing water for domestic, public, and other beneficial uses.

"SEC. 2. That the rights of way for ditches, canals, or reservoirs

heretofore or hereafter approved under the provisions of sections eighteen, nineteen, twenty, and twenty-one of the act entitled 'An act to repeal timber-culture laws, and for other purposes,' approved March third, eighteen hundred and ninety-one, may be used for purposes of a public nature; and said rights of way may be used for purposes of water transportation, for domestic purposes, or for the development of power, as subsidiary to the main purpose of irrigation."

Approved, May 11, 1898. (30 Stat., 404.)

[No. 77.]

LEGISLATION FOR ALASKA.

AN ACT extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the homestead land laws of the United States and the rights incident thereto, including the right to enter surveyed or unsurveyed lands under provisions of law relating to the acquisition of title through soldiers' additional homestead rights, are hereby extended to the District of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu lands pertaining to any land grant whatsoever originating outside of said District of Alaska shall be located within or taken from lands in said District: *Provided*, That no entry shall be allowed extending more than eighty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims, and that nothing herein contained shall be so construed as to authorize entries to be made, or title to be acquired, to the shore of any navigable waters within said District: *And it is further provided*, That no homestead shall exceed eighty acres in extent.

SEC. 2. That the right of way through the lands of the United States in the District of Alaska is hereby granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may hereafter file for record with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, excepting at terminals and junction points, which may include additional forty acres, to be limited on navigable waters to eighty rods on the shore line, and with the right to use such additional ground as may in the opinion of the Secretary of the Interior be necessary where there are heavy cuts or fills: *Provided*, That nothing herein contained shall be so construed as to give to such railroad company, its lessees, grantees, or assigns the ownership or use of minerals, including coal, within the limits of its right of way, or of the lands hereby granted: *Provided further*, That

all mining operations prosecuted or undertaken within the limits of such right of way or of the lands hereby granted shall, under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operations of the road over its said lands or right of way. And when such railway shall connect with any navigable stream or tide water such company shall have power to construct and maintain necessary piers and wharves for connection with water transportation, subject to the supervision of the Secretary of the Treasury: *Provided*, That nothing in this act contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of said District, or any part thereof, to tide lands and beds of any of its navigable waters, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may hereafter be erected out of said District. The term "navigable waters," as herein used, shall be held to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary high-water mark. That all charges for the transportation of freight and passengers on railroads in the District of Alaska shall be printed and posted as required by section six of an act to regulate commerce as amended on March second, eighteen hundred and eighty-nine, and such rates shall be subject to revision and modification by the Secretary of the Interior.

SEC. 3. That any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its roads, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway where such tramway, wagon road, or highway may be necessary for the public accommodation; and where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such tramway, wagon road, or highway, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road or tramway: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile, and that where the space is limited the United States district court shall require the road first constructed to allow any other railroad or tramway to pass over its track or tracks through such canyon, pass, or defile on such equitable basis as the said court may prescribe; and all shippers shall be entitled to equal accommodations as to the movement of their freight and without discrimination in favor of any person or corporation: *Provided*, That nothing herein shall be construed as depriving Congress of the right to regulate the charges for freight, passengers, and wharfage.

SEC. 4. That where any company, the right of way to which is hereby granted, shall in the course of construction find it necessary to pass over private lands or possessory claims on lands of the United States, con-

demnation of a right of way across the same may be made in accordance with section three of the act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two,'" approved July second, eighteen hundred and sixty-four: *Provided further*, That any such company, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter, to file the map and profile of definite location provided for in this act, and such preliminary survey and plat shall, during the said period of one year from the time of filing the same, have the effect to render all the lands on which said preliminary survey and plat shall pass subject to such right of way.

SEC. 5. That any company desiring to secure the benefits of this act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a twenty mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed, and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within one year after the definite location of said section so approved, or if the map of definite location be not filed within one year as herein required, or if the entire road shall not be completed within four years from the filing of the map of definite location, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way, stations, and terminals shall cease and become null and void without further action.

SEC. 6. That the Secretary of the Interior is hereby authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in said District, not to exceed one hundred feet in width, and ground for station and other necessary purposes, not to exceed five acres for each station for each five miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said District for the construction of such wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding twenty years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed twenty acres of public land at each terminus at one dollar and twenty-five cents per acre, such lands when located at or near tide water not to extend more than forty rods in width along the

shore line and the title thereto to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such right of way or station grounds shall be reserved to the United States: *Provided*, That such lands may be located concurrently with the line of such road or tramway, and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: *Provided further*, That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes. And no right to construct a wagon road on which toll may be collected shall be granted unless it shall first be made to appear to the satisfaction of the Secretary of the Interior that the public convenience requires the construction of such proposed road, and that the expense of making the same available and convenient for public travel will not be less on an average than five hundred dollars per mile: *Provided*, That if the proposed line of road in any case shall be located over any road or trail in common use for public travel, the Secretary of the Interior shall decline to grant such right of way, if, in his opinion, the interests of the public would be injuriously affected thereby. Nor shall any right to collect toll upon any wagon road in said District be granted or inure to any person, corporation, or company until it shall be made to appear to the satisfaction of said Secretary that at least an average of five hundred dollars per mile has been actually expended in constructing such road; and all persons are prohibited from collecting or attempting to collect toll over any wagon road in said District, unless such person or the company or person for whom he acts shall at the time and place the collection is made or attempted to be made possess written authority, signed by the Secretary of the Interior, authorizing the collection and specifying the rates of toll: *Provided*, That accurate printed copies of said written authority from the Secretary of the Interior, including toll, freight, and passenger charges thereby approved, shall be kept constantly and conspicuously posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than fifty dollars nor more than five hundred dollars, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

That any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this act that may heretofore have constructed not less than one mile of road, at a cost of not less than five hundred dollars per mile, or one-half mile of tramway at a cost of not less than five hundred dollars; shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this act over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. That if any party to whom license has been granted to construct such wagon road or tramway shall, for the period of one year, fail, neglect, or refuse to complete the same, the rights herein granted shall be forfeited as to any

such uncompleted section of said wagon road or tramway, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way shall cease and become null and void without further action. And if such road or tramway shall not be kept in good condition for use, the Secretary of the Interior may prohibit the collection of toll thereon pending the making of necessary repairs.

That all mortgages executed by any company acquiring a right of way under this act, upon any portion of its road that may be constructed in said District of Alaska, shall be recorded with the Secretary of the Interior, and the record thereof shall be notice of their execution, and shall be a lien upon all the rights and property of said company as therein expressed, and such mortgage shall also be recorded in the office of the secretary of the District of Alaska and in the office of the secretary of the State or Territory wherein such company is organized: *Provided*, That all lawful claims of laborers, contractors, subcontractors, or material men, for labor performed or material furnished in the construction of the railroad, tramway, or wagon road shall be a first lien thereon and take precedence of any mortgage or other lien.

SEC. 7. That this act shall not apply to any lands within the limits of any military, park, Indian, or other reservation unless such right of way shall be provided for by act of Congress.

SEC. 8. That Congress hereby reserves the right at any time to alter, amend, or repeal this act or any part thereof; and the right of way herein and hereby authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: *Provided*, That where within ninety days after the approval of this act, proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road or tramway, prior to January twenty-first, eighteen hundred and ninety eight, the rights to inure hereunder shall, if the terms of this act are complied with as to such railroad, wagon road or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right of way or other privilege of this act the person, company or corporation having been first in time in actual survey or construction, as the case may be, shall be deemed first in right.

SEC. 9. That the map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the land passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map.

SEC. 10. That any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory now

authorized by law to hold lands in the Territories, hereafter in the possession of and occupying public lands in the District of Alaska in good faith for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only not exceeding eighty acres of such land for any one person, association, or corporation, at two dollars and fifty cents per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands, and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: *Provided*, That no entry shall be allowed under this act on lands abutting on navigable water of more than eighty rods: *Provided further*, That there shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of this act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings, and wharves, with the provision that the public shall have access to and proper use of such wharves, and landings, at reasonable rates of toll to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway: *Provided further*, That in case more than one person, association, or corporation shall claim the same tract of land, the person, association, or corporation having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are or may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests: *Provided further*, That all claims substantially square in form and lawfully initiated, prior to January twenty-first, eighteen hundred and ninety-eight, by survey or otherwise, under sections twelve and thirteen of the act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, Chapter five hundred and sixty-one), may be perfected and patented upon compliance with the provisions of said act, but subject to the requirements and provisions of this act, except as to area, but in no case shall such entry extend along the water front for more than one hundred and sixty rods: *And provided further*, That the Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or sea shore for landing places for canoes and other craft used by such natives: *Provided*, That the Annette, Pribilof Islands, and the islands leased or occupied for the propagation of foxes be excepted from the operation of this act.

That all affidavits, testimony, proofs, and other papers provided for by this act and by said act of March third, eighteen hundred and ninety-one, or by any departmental or Executive regulation thereunder, by depositions or otherwise, under commission from the register and receiver of the land office, which may have been or may hereafter be taken and sworn to anywhere in the United States, before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before the register and receiver of the proper local land office. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim,

shall be filed in the office of the surveyor-general of the District of Alaska, and if such survey and plat shall be approved by him, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, the register of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within the District of Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office, as aforesaid, cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association, having or asserting any adverse interest in, or claim to, the tract of land or any part thereof sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within the District of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court.

SEC. 11. That the Secretary of the Interior, under such rules and regulations as he may prescribe, may cause to be appraised the timber or any part thereof upon public lands in the District of Alaska, and may from time to time sell so much thereof as he may deem proper for not less than the appraised value thereof, in such quantities to each purchaser as he shall prescribe, to be used in the District of Alaska, but not for export therefrom. And such sales shall at all times be limited to actual necessities for consumption in the District from year to year, and payments for such timber shall be made to the receiver of public moneys of the local land office of the land district in which said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe, and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury.. The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber found upon the public lands in said District of Alaska by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, as may actually be needed by such persons for such purposes.

SEC. 12. That the President is authorized and empowered, in his discretion, by Executive order from time to time to establish or discontinue land districts in the District of Alaska, and to define, modify, or change the boundaries thereof, and designate or change the location of any land office therein; and he is also authorized and empowered to appoint, by and with the advice and consent of the Senate, a register for each land district he may establish and a receiver of public moneys therefor; and the register and receiver appointed for such district shall, during their respective terms of office, reside at the place designated for the land office. That the registers and receivers of public moneys in the land districts of Alaska shall each receive an annual salary of one thousand five hundred dollars and the fees provided by

law for like officers in the State of Oregon, not to exceed, including such salary and fees, a total annual compensation of three thousand dollars for each of said officers.

SEC. 13. That native-born citizens of the Dominion of Canada shall be accorded in said District of Alaska the same mining rights and privileges accorded to citizens of the United States in British Columbia and the Northwest Territory by the laws of the Dominion of Canada or the local laws, rules, and regulations; but no greater rights shall be thus accorded than citizens of the United States or persons who have declared their intention to become such may enjoy in said District of Alaska; and the Secretary of the Interior shall from time to time promulgate and enforce rules and regulations to carry this provision into effect.

SEC. 14. That under rules and regulations to be prescribed by the Secretary of the Treasury, the privilege of entering goods, wares, and merchandise in bond or of placing them in bonded warehouses at any of the ports in the District of Alaska, and of withdrawing the same for exportation to any place in British Columbia or the Northwest Territory without payment of duty, is hereby granted to the Government of the Dominion of Canada and its citizens or citizens of the United States and to persons who have declared their intention to become such whenever and so long as it shall appear to the satisfaction of the President of the United States, who shall ascertain and declare the fact by proclamation, that corresponding privileges have been and are being granted by the Government of the Dominion of Canada in respect of goods, wares and merchandise passing through the territory of the Dominion of Canada to any point in the District of Alaska from any point in said District.

Approved, May 14, 1898. (30 Stat., 409.)

[No. 78.]

DISTINCTION BETWEEN OFFERED AND UNOFFERED LANDS ABOLISHED IN CERTAIN CASES.

CHAP. 344.—AN ACT to abolish the distinction between offered and unoffered lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases arising from and after the passage of this act the distinction now obtaining in the statutes between offered and unoffered lands shall no longer be made in passing upon subsisting preemption claims, in disposing of the public lands under the homestead laws, and under the timber and stone law of June third, eighteen hundred and seventy-eight, as extended by the act of August fourth, eighteen hundred and ninety-two, but in all such cases hereafter arising the land in question shall be treated as unoffered, without regard to whether it may have actually been at some time offered or not.

SEC. 2. That all public lands within the State of Missouri shall hereafter be subject to disposal at private sale in the manner now provided by law for the sale of lands which have been publicly offered for sale, whether such lands have ever been offered at public sale or not: *Provided*, That the actual settlers shall have a preference right, under such rules and regulations as the Secretary of the Interior may prescribe.

Approved, May 18, 1898. (30 Stat., 418.)

[No. 79.]

MILITARY SERVICE OF SETTLER ENLISTED AS SOLDIER, ETC., TO BE EQUIVALENT TO RESIDENCE, ETC.

CHAP. 458.—AN ACT for the protection of homestead settlers who enter the military or naval service of the United States in time of war.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in every case in which a settler on the public land of the United States under the homestead laws enlists or is actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the existing war with Spain, or during any other war in which the United States may be engaged, his services therein shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and hereafter no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits of contest, and proved at the hearing in cases hereafter initiated, that the settler's alleged absence from the land was not due to his employment in such service: *Provided*, That if such settler shall be discharged on account of wounds received or disability incurred in the line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service: *Provided further*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

Approved, June 16, 1898. (30 Stat., 473.)

[No. 80.]

RELINQUISHMENT OF LAND WITHIN THE INDEMNITY LIMITS OF THE NORTHERN PACIFIC RAILROAD GRANTS.

CHAP. 546.—AN ACT making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-nine, and for other purposes.

* * * * * * *

That where, prior to January first, eighteen hundred and ninety-eight, the whole or any part of an odd-numbered section, in either the granted or the indemnity limits of the land grant to the Northern Pacific Railroad Company, to which the right of the grantee or its lawful successor is claimed to have attached by definite location or selection, has been purchased directly from the United States or settled upon or claimed in good faith by any qualified settler under color of title or claim of right under any law of the United States or any ruling of the Interior Department, and where purchaser, settler, or claimant refuses to transfer his entry as hereinafter provided, the railroad grantee or its successor in interest, upon a proper relinquishment thereof, shall be entitled to select in lieu of the land relinquished an equal quantity of public lands, surveyed or unsurveyed, not mineral or reserved, and not

valuable for stone, iron, or coal, and free from valid adverse claim or not occupied by settlers at the time of such selection, situated within any State or Territory into which such railroad grant extends, and patents shall issue for the land so selected as though it had been originally granted; but all selections of unsurveyed lands shall be of odd-numbered sections, to be identified by the survey when made, and patent therefor shall issue to and in the name of the corporation surrendering the lands before mentioned, and such patents shall not issue until after the survey: *Provided, however*, That the Secretary of the Interior shall from time to time ascertain and, as soon as conveniently may be done, cause to be prepared and delivered to the said railroad grantee or its successor in interest a list or lists of the several tracts which have been purchased or settled upon or occupied as aforesaid, and are now claimed by said purchasers or occupants, their heirs or assigns, according to the smallest Government subdivisions. And all right, title, and interest of the said railroad grantee or its successor in interest in and to any of such tracts, which the said railroad grantee or its successor in interest may relinquish hereunder shall revert to the United States, and such tracts shall be treated, under the laws thereof, in the same manner as if no rights thereto had ever vested in the said railroad grantee, and all qualified persons who have occupied and may be on said lands as herein provided, or who have purchased said lands in good faith as aforesaid, their heirs and assigns, shall be permitted to prove their titles to said lands according to law, as if said grant had never been made; and upon such relinquishment said Northern Pacific Railroad Company or its lawful successor in interest may proceed to select, in the manner hereinbefore provided, lands in lieu of those relinquished, and patents shall issue therefor: *Provided further*, That the railroad grantee or its successor in interest shall accept the said list or lists so to be made by the Secretary of the Interior as conclusive with respect to the particular lands to be relinquished by it, but it shall not be bound to relinquish lands sold or contracted by it or lands which it uses or needs for railroad purposes, or lands valuable for stone, iron, or coal: *And provided further*, That whenever any qualified settler shall in good faith make settlement in pursuance of existing law upon any odd-numbered sections of unsurveyed public lands within the said railroad grant to which the right of such railroad grantee or its successor in interest has attached, then upon proof thereof satisfactory to the Secretary of the Interior, and a due relinquishment of the prior railroad right, other lands may be selected in lieu thereof by said railroad grantee or its successor in interest, as hereinbefore provided, and patents shall issue therefor: *And provided further*, That nothing herein contained shall be construed as intended or having the effect to recognize the Northern Pacific Railway Company as the lawful successor of the Northern Pacific Railroad Company in the ownership of the lands granted by the United States to the Northern Pacific Railroad Company, under and by virtue of foreclosure proceedings against said Northern Pacific Railroad Company in the courts of the United States, but the legal question whether the said Northern Pacific Railway Company is such lawful successor of the said Northern Pacific Railroad Company, should the question be raised, shall be determined wholly without reference to the provisions of this Act, and nothing in this Act shall be construed as enlarging the quantity of land which the said Northern Pacific Railroad Company is entitled to under laws heretofore enacted: *And provided further*, That all qualified settlers, their heirs or assigns, who, prior to January first, eighteen hundred

and ninety-eight, purchased or settled upon or claimed in good faith, under color of title or claim of right under any law of the United States or any ruling of the Interior Department, any part of an odd-numbered section in either the granted or indemnity limits of the land grant to the Northern Pacific Railroad Company to which the right of such grantee or its lawful successor is claimed to have attached by definite location or selection, may in lieu thereof transfer their claims to an equal quantity of public lands surveyed or unsurveyed, not mineral or reserved, and not valuable for stone, iron, or coal, and free from valid adverse claim, or not occupied by a settler at the time of such entry, situated in any State or Territory into which such railroad grant extends, and make proof therefor as in other cases provided; and in making such proof, credit shall be given for the period of their bona fide residence and amount of their improvements upon their respective claims in the said granted or indemnity limits of the land grant to the said Northern Pacific Railroad Company the same as if made upon the tract to which the transfer is made; and before the Secretary of the Interior shall cause to be prepared and delivered to said railroad grantee or its successor in interest any list or lists of the several tracts which have been purchased or settled upon or occupied as hereinbefore provided, he shall notify the purchaser, settler, or claimant, his heirs or assigns, claiming against said railroad company, of his right to transfer his entry or claim, as herein provided, and shall give him or them option to take lieu lands for those claimed by him or them or hold his claim and allow the said railroad company to do so under the terms of this act.

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Approved, July 1, 1898. (30 Stat., 620.)

[No. 81.]

ADDITIONAL LEGISLATION IN REGARD TO LANDS IN GREER COUNTY, OKLAHOMA.

AN ACT to amend section one of an Act to provide for the entry of lands in Greer County, Oklahoma Territory, to give preference right to settlers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one of an act to give preference right to settlers in Greer County, Oklahoma Territory, is hereby so amended as to allow parties who have had the benefit of the homestead laws of the United States, and who had purchased lands in Greer County from the State of Texas prior to March sixteenth, eighteen hundred and ninety-six, to perfect titles to said lands according to the provisions of section one hereinbefore mentioned, under such regulations as the Commissioner of the General Land Office may prescribe, and according to the legal subdivisions of the public surveys, if no adverse rights have attached: *Provided*, That no settler shall be permitted to acquire to exceed three hundred and twenty acres under this provision.

Approved, March 1, 1899 (30 Stat., 966).

[No. 82.]

SOLDIERS' ADDITIONAL ENTRIES, CIRCULAR FEBRUARY 18, 1890.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 18, 1890.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: Where parties apply to make entries under section 2306, United States Revised Statutes, claiming, by virtue of service in the army or navy of the United States during the late civil war, and of having made a homestead entry for less than 160 acres, prior to the 22d of June, 1874, and the right claimed is not certified by this office, after examination, under circular of May 17, 1877, and the certificate presented to you in support of the claim, I have to direct that before taking final action on the claim, you forward the papers to this office for examination in connection with the official records, after making the notations on your records necessary to show the pendency of the application, and the consequent segregation of the land, so as to prevent any adverse appropriation before the application is finally acted upon, and await instructions before taking any further action in the case.

Very respectfully,

LEWIS H. GROFF,
Commissioner.

[No. 83.]

SOLDIERS' ADDITIONAL ENTRIES, CIRCULAR DECEMBER 4, 1896, REFERRING TO CIRCULAR FEBRUARY 18, 1890.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 4, 1896.

REGISTERS AND RECEIVERS,
United States Land Offices.

GENTLEMEN: Your attention is called to circular letter of February 18, 1890 (copy herewith), in regard to soldiers' additional homestead entries, the existence of which is in some instances being disregarded or overlooked.

Under said circular you were directed not to allow applications for soldiers' additional entries under section 2306, Revised Statutes, to go to record when unaccompanied by certificates issued by the Commissioner of the General Land Office, certifying the right of the soldier to make additional entry for a specific amount of land.

Your attention is also called to the circular of October 16, 1894 (copy herewith), in regard to certificates of right recertified by this office, under the act of August 18, 1894 (28 Stat., 397), in the names of assignees of soldiers.

You are authorized to allow an entry to go to record when a certificate in the name of the soldier, or a recertified certificate in the name of the assignee of the soldier, is presented for location. But whenever an application to make additional entry under section 2306, Revised Statutes, not to locate a certificate, is made either by the soldier in person or by

his assignee, who must file evidence of the alleged assignment, you will make the necessary notations on your records and transmit the application to this office for examination with the official records as directed in said letter of February 18, 1890, and await further instructions.

With regard to the location of certificates recertified under the act of August 18, 1894, the present owner thereof must be connected with the soldier. Therefore, in the allowance of such locations final papers must be issued in the name of the present owner of the certificate, the one who applies to locate the same, *as assignee of the soldier*, not of another, whether the name of said present owner appears in the certificate as the immediate assignee of the soldier, or whether his ownership is shown by subsequent assignments.

When a certificate is presented for location which has not been recertified under said act of August 18, 1894, the final papers should be issued in the name of the soldier, whoever may be the owner thereof.

Very respectfully,

E. F. BEST,
Assistant Commissioner.

[No. 84.]

PREEMPTIONS.

The laws which provided for preemptions on the public lands of the United States were repealed by the fourth section of the act of March 3, 1891 (26 Stat., 1095; Appendix No. 44, p. 221), which reads as follows, viz:

SEC. 4. That chapter four of title thirty-two, excepting sections twenty-two hundred and seventy-five, twenty-two hundred and seventy-six, twenty-two hundred and eighty-six, of the Revised Statutes of the United States, and all other laws allowing preemption of the public lands of the United States, are hereby repealed; but all bona fide claims lawfully initiated before the passage of this act, under any of said provisions of law so repealed, may be perfected upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this act had not been passed.

For information regarding the conditions on which bona fide claims lawfully initiated before the passage of the repealing act may be perfected, the following instructions are presented, viz:

Preemption is the exercise of a right by a person possessing the qualifications required by statute who has made settlement in person on public land subject to preemption, not exceeding 160 acres, inhabited and improved it, and erected a dwelling thereon, to obtain title in preference to any other, by entry and purchase at the price at which the land is held.

CLASS OF LANDS SUBJECT TO PREEMPTION.

Public lands of the United States to which the Indian title has been extinguished and which are not included in any reservation by any treaty, law, or proclamation of the President, for any purpose; which are not included within the limits of any incorporated town or selected as the site of a city or town; which are not actually settled upon nor occupied for purposes of trade and business and not for agriculture, and on which there are not situated any known mines or salines are subject to preemption. (Sec. 2258, Rev. Stat.; Appendix No. 1, p. 146.)

QUALIFICATIONS OF PREEMPTORS.

A preemptor must be the head of a family, a widow, or single person over the age of 21 years and a citizen of the United States, or one who has declared his intention to become a citizen, as provided by the naturalization laws.

No person can acquire any right of preemption who is the proprietor of 320 acres of land in any State or Territory, nor who quits or abandons his residence on his own land to reside on the public land in the same State or Territory.

PROCEEDINGS TO ACQUIRE TITLE TO LAND BY PREEMPTION.

A party desiring to preempt a tract of land should carefully and in person examine the land, be certain of its true description according to the public surveys, and satisfy himself as to its character and desirability for purposes of residence and cultivation, and that there is no other valid claim to it. He is bound to personally know the land he claims, and any mistakes that might have been avoided with proper diligence are at his own risk.

Having selected the land he proposes to claim, he should move upon it and make an actual settlement thereon in person. He must go in person upon the land and perform substantial acts as a bona fide actual settler thereon before he can acquire any right as a preemptor.

When he has done this he may file his declaratory statement in the district land office. This may be done in person or through the mails, but he can not file a declaratory statement before he has actually settled upon the land. Illegal filings resulting from the willful fault or gross negligence of the preemptor exhaust the preemption right.

A filing without actual settlement is illegal, and no rights are acquired thereby, although a subsequent bona fide settlement may be recognized if made before the intervention of a valid adverse claim and duly followed up by the proper inhabitancy and improvement.

If the land is "offered," his declaratory statement must be filed within thirty days after he becomes a settler on the land. (Form No. 4–534, p. 272.)

If the land is surveyed and "unoffered," he has three months after becoming a settler on the land within which to make his filing. (Form No. 4–535, p. 272.)

Settlers on unsurveyed land have three months after the plat of township survey is filed in the district land office within which to put their claims on record.

Failure to file a declaratory statement within the time prescribed makes the land liable to the claim of an adverse settler who does file notice of his intention at the proper time and otherwise complies with the conditions of the law. (Sec. 2265, Rev. Stat.; Appendix No. 1, p. 148.)

The declaratory statement must describe the land settled upon, state the date of settlement, and declare the intention of the party to claim the same under the preemption laws. The declaratory statement must be in writing or printed according to the prescribed form and be witnessed by not less than two persons who live in the neighborhood of the land. The place of residence of claimant's witnesses and the post-office address of claimant must be stated in the declaration.

The existence of a preemption filing on a tract of land does not prevent another filing for the same land, subject to any valid rights acquired by virtue of any former settlement and filing.

The land office fee for filing a declaratory statement is $2, except in the Pacific States and Territories, where the fee is $3.

SECOND PREEMPTION FILINGS.

The second filing of a declaratory statement by any preemptor who was qualified at the date of his first filing is illegal. (Sec. 2261, Rev. Stat.; Appendix No. 1, p. 147; Baldwin *v.* Stark, 107 U. S., 463; also Secretary's decision of February 27, 1884, case of Raymond, 10 Copp, 395.) Where the first filing, however, was illegal from any cause not the willful act of the party, he has the right to make a second and legal filing. (Goist *v.* Bottum, 5 L. D., 643.) And the right to make a second filing will be recognized when through no fault or negligence of the preemptor, consummation of title was not practicable under the first. (Paris Meadows et al., 9 L. D., 41.)

RELINQUISHMENT OF PREEMPTION FILINGS.

Preemption filings may be relinquished by the claimants in writing, filed with the register and receiver of the proper district land office, or the relinquishment may be executed by the claimant on the back of the declaratory statement receipt. Notice of such relinquishment should be promptly forwarded by the register to the Commissioner of the General Land Office for his information.

PROOF AND PAYMENT.

On *offered* lands proof and payment must be made within twelve months from date of settlement.

If the land is *unoffered* proof and payment may be made within thirty-three months from date of settlement, or in case of unsurveyed lands from date of filing plat of survey in the district office.

The preemption laws are intended for the benefit of persons making settlement upon the public lands, followed by residence and improvement and the erection of a dwelling thereon. Residence must be both continuous and personal. (Bohall *v.* Dilla, 114 U. S. Supreme Court Reports, 47, 51.)

"It was necessary for the preemptor to prove that he occupied the premises continuously after filing his declaratory statement." (*Ibid.*)

The Department requires, in evidence of the genuineness of settlement, that six months of actual residence shall be passed before proof and payment, and then proof of compliance with law in all respects must be sufficient and satisfactory. A party offering proof in the shortest time can not be excused on that account for any non-compliance with the requirements of residence and agricultural improvement, since he is not obliged to make proof and payment at the earliest period the law allows, but has sufficient time within which to fully comply with the law.

A failure to make proof and payment as prescribed by law renders the land subject to appropriation by the first legal applicant, but in the absence of an adverse claim proof and payment can be made after the expiration of the twelve or thirty-three months allowed.

Failure to inhabit and improve the land in good faith, as required by law, renders the claim subject to contest and the entry to investigation and cancellation.

Final proof in preemption cases must be made to the satisfaction of the register and receiver, whose decision, as in other cases, is subject to examination and review by this office and Department.

When two or more settlers on unsurveyed land are found upon survey to be residing upon or to have valuable improvements upon the

same smallest legal subdivision, they may make joint entry of such tract and separate entries of the residue of their claims. This joint entry may be made in pursuance of contract between the parties or without it. (Rev. Stat., sec. 2274; Appendix No. 1, p. 149.)

Publication of notice to make proof is required in the same manner as in homestead and other cases. (See "Final proof," p. 14, and "Publication of notice of final proof," p. 83.)

In making final proof the preemptor must appear in person with his witnesses at the district office, or before the clerk of the county court or of a court of record of the county or parish and State, or district and Territory, in which the land is situated, or before any United States commissioner appointed under act of May 28, 1896 (appendix No. 70, p. 242) having jurisdiction over such county or parish, and make the affidavit and proof prescribed, or in Territories the proof may be made before a United States court commissioner as provided by act of March 2, 1895. (See Appendix No. 64, p. 239.)

It is held, however, that "the law does not authorize the making of such proofs and affidavits before such commissioner outside of the county and State, or district and Territory, in which the lands are situated, unless the lands are situated in an unorganized county, which case is otherwise fully provided for by law." (Secretary's decision of October 2, 1890, case of Edward Bowker, 11 L. D., 361.)

The preemptor is required to make oath that he has not previously exercised his preemption right; that he is not the owner of 320 acres of land; that he has not settled upon and improved the land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; that he has not made any contract or agreement, directly or indirectly, in any way or manner, with any person whomsoever, by which the title he may acquire from the United States shall inure in whole or in part to the benefit of any person except himself. (See Form 4–061, p. 273.)

Any person swearing falsely *forfeits all right to the land and to the purchase money paid*, besides being liable to prosecution under the criminal laws of the United States.

Final proof, in addition to the affidavit of claimant, must consist of the testimony of the claimant, corroborated by that of at least two witnesses, taken separately, to the facts constituting his qualifications, and his compliance with law as to settlement, inhabitancy, improvement, nonalienation, etc. (Rev. Stat., sec. 2263; Appendix No. 1, p. 148; Form 4–374, p. 273.)

The exact date of beginning and of ending of each and of every absence from the land should be particularly stated, and the reasons therefor fully given, so as to enable the Department to determine as to the sufficiency of the explanation.

The affidavit of claimant, his testimony, and the testimony of his witnesses, and the nonmineral affidavit (where required) must be made at the same time and place and before the same officer.

No other officer than the register or receiver, or the judge or clerk of a court of record of the county or parish in which the land is situated, or a United States commissioner appointed under act of May 28, 1896 (appendix No. 70, p. 242) having jurisdiction over such county or parish can take proofs in preemption cases, except that when the land is in an unorganized county the proofs may be made before the same officers in an adjacent county in the same State or Territory. (Sec. 2263, Rev. Stat.; Appendix No. 1, p. 148, act of June 9, 1880, 21 Stat., 169, Appendix No. 19, p. 178; circular, March 30, 1886, 4 L. D., 473; act of May 26, 1890, 26 Stat., 121; Appendix No. 38, p. 213).

EXTENSION OF TIME FOR PAYMENT.

In reference to the joint resolution of September 30, 1890, and act of July 26, 1894, providing therefor, see pages 10 and 230.

LEAVES OF ABSENCE.

In reference to statutes allowing leaves of absence in certain cases, see pages 16–18.

ASSIGNEE OF A PREEMPTOR BEFORE PATENT.

An assignee of a preemptor before patent has no claim upon the United States for the land nor for the money paid, in event of the failure of the claim and cancellation of the entry for fraud or false swearing by entryman. (Sec. 2262, Rev. Stat.; Appendix No. 1, p. 147.)

HEIRS OF A DECEASED PREEMPTOR.

Should a preemptor die without establishing his claim within the period limited by law, the title may be perfected by the executor, administrator, or one of the heirs, by making the requisite proof of settlement and paying for the land, the entry to be made in the name of "the heirs" of the deceased settler, and the patent will be issued accordingly. The legal representatives of the deceased preemptor are entitled to make the entry at any time within the period during which the preemptor would have been entitled to do so had he lived. (Rev. Stat., sec. 2269; Appendix No. 1, p. 149.)

PREEMPTION CLAIMANTS WHO BECOME INSANE.

The rights of a preemption claimant who has become insane may, under act of June 8, 1880, be proved up and his claim perfected by any person duly authorized to act for him during his disability. (21 Stat., 166; Appendix No. 18, p. 177.)

Such claim must have been initiated in full compliance with law, by a person who was a citizen or had declared his intention of becoming a citizen, and was in other respects duly qualified.

The party for whose benefit the act shall be invoked must have become insane subsequently to the initiation of his claim.

Claimant must have complied with the law up to the time of becoming insane; and proof of compliance will be required to cover only the period prior to such insanity; but the act will not be construed to cure a failure to comply with the law when the failure occurred prior to such insanity.

The final proof must be made by a party whose authority to act for the insane person during his disability shall be duly certified under seal of the proper probate court.

PRICE OF LAND TO PREEMPTORS.

The price of land to a preemptor upon "minimum" lands—i. e., lands not within the limits of a grant to a railroad or some other work of internal improvement—is $1.25 per acre. Within the limits of such grant the price is $2.50 per acre; but settlers, prior to withdrawal, are allowed to enter at $1.25 per acre, provided they shall file notice of their claims and make proof and payment as in other cases. (Rev. Stat., secs. 2257, 2259, 2279, 2281, 2357; Appendix No. 1, pp. 146, 147, 151, and 158.)

[No. 85.]

SUSPENDED ENTRIES—RULES AND REGULATIONS—BOARD OF EQUITABLE ADJUDICATION.

Under the act of Congress approved August 3, 1846, entitled "An act providing for the adjustment of all suspended preemption land claims in the several States and Territories," the following general equitable rules and regulations were established for the government of the Commissioner of the General Land Office:

The Commissioner will recognize as valid and place in the first class, suspended entries of the following description:

1. All preemption entries in which one or more legal requirements do not appear in the papers because of the neglect or inattention of the land officers, but where the existing testimony shows a substantial and bona fide settlement and improvement of the lands; or where such facts were satisfactorily shown to the local officers by proof which was lost in transmission to the General Land Office and can not now be renewed by reason of the death of witnesses, or other cause.

2. All preemption entries under the acts of 12th April, 1814, 29th May, 1830, 5th April, 1832, 19th June, 1834, 22d June, 1838, and 1st June, 1840, which have been allowed in the name of assignees, instead of the preemptors themselves, where the claim is bona fide, and the assignees or subsequent purchasers are in possession.

3. All entries in virtue of "floats," under the acts of 29th May, 1830, and 19th June, 1834, where the *original settlement* (from which the "float" was derived) was bona fide and had been actually entered, but where such *original settlement* was on land reserved for private claims the survey of which had not been returned at the time of entry; and also all entries by such "floats" on land liable to sale, where the "float" entries had been made prior to the return of the official plat of survey for the original settlement.

4. Entries allowed by preemption on "sketch maps" (obtained by the parties) before the return of the regular approved plat of the township embracing the land.

5. All entries allowed by preemption on land which was reserved at the date of the preemption act, but which was released from reservation before the expiration of said act, where such entries are in other respects regular.

6. Preemption entries under laws requiring actual residence on public land, in which the residence was found to be on private property, but where the tract entered formed a substantial part of the farm of the claimant, and was improved and cultivated by him at the period required for residence.

7. Preemption entries of legal subdivisions of a fractional section which contain more than 160 acres, but which are as near that quantity as the existing subdivisions will allow.

8. Preemption entries allowed under one preemption law, where it shall have been discovered that said entries are invalid under that act, but where the settlement and improvement is of a character to have entitled the parties to a legal and valid claim under a subsequent law, provided the land is not embraced by the valid claim of another.

9. Preemption entries in the mineral region embracing the half of a quarter section reserved for mineral purposes where the half quarter so entered is shown not to have contained mineral, and also entries as "floats," allowed to the claimants, who, by reason of one portion of the quarter section on which they were settled containing mineral, were

unable to enter more than the half of said quarter section, provided the claim is otherwise a bona fide one.

10. Preemption entries founded upon a bona fide right of preemption, where, as it respects the mode and manner of the entry, there is not a strict conformity with the law, but where such entry does not embrace a quantity exceeding that allowed by law, is in accordance with the wish of the party or parties interested and does not interfere with the rights or interests of another.

11. All private sales of tracts which have not been previously offered at public sale, but where the entry appears to have been permitted by land officers under the impression that the land was liable to private entry, and there is no reason to presume fraud, or to believe that the purchase was made otherwise than in good faith.

12. All sales made at one land office of lands which were only liable to sale at another where the proceedings in all other respects were regular.

13. All bona fide entries on lands which had been once offered, but afterwards temporarily withdrawn from market, and then released from reservation, where such lands are not rightfully claimed by others.

14. All bona fide entries at private sale, allowed at Mineral Point, Wis., and fully paid for, of lands which were not ascertained or reported to contain lead mineral until after the date of said entries, where the land is not rightfully claimed by another.

The foregoing regulations are not to embrace any case where the entry has been canceled or desired by the party, or where a subsequent entry of the same land has been legally made by the claimant himself, or by another person.

JAMES L. PIPER,
Acting Commissioner of the General Land Office.

We concur in these rules and regulations, October 3, 1846.

R. J. WALKER,
Secretary of the Treasury.
J. Y. MASON,
Attorney-General.

* * * * * * *

[Rule 15, having become obsolete, is omitted.]

* * * * * * *

Under the act of Congress approved 3d of March, 1853, reviving and continuing in force the act of 3d of August, 1846, the following rule was established for the government of the Commissioner of the General Land Office:

16. That all locations under the act of 14th August, 1848, entitled "An act in relation to military land warrants," be confirmed, and patents issued thereon, where the land located lies in one body, and the only objection to the location is, that it consists, technically, of more than one legal subdivision.

JOHN WILSON,
Commissioner.

We concur in this rule, 16th March, 1854.

R. MCCLELLAND,
Secretary of the Interior.
C. CUSHING,
Attorney-General.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 25, 1877.

SIR: I have the honor to submit herewith, for your concurrence and that of the honorable Attorney-General, a set of rules to govern me in submitting for confirmation, under section 2450 of the Revised Statutes of the United States, entries suspended for various causes, but which, upon principles of equity and justice, should be confirmed.

Authority to confirm suspended entries of the public lands was first vested in the Secretary of the Treasury, Attorney-General, and Commissioner of the General Land Office by act of Congress of August 3, 1846, and revised and extended by acts of 3d of March, 1853, and 26th of June, 1856.

Under these acts, from time to time, sixteen rules have been established, the last March 16, 1854. (See 1 Lester, Land Laws, 482, title 5.)

Since then the different homestead acts have been passed, and new classes of suspended entries under the preemption laws have arisen. I have prepared eleven new rules, from Nos. 17 to 27, inclusive. I find that many of the old established rules are obsolete.

* * * * * * *

Cases in each of the classes mentioned, except class 22, have been confirmed under section 2450 of the Revised Statutes.

It is believed that these classes will cover all agricultural entries falling under general rules.

Special cases not covered by these rules, in which equitable relief should be afforded, will probably arise. Such cases will be submitted as special, with letters of explanation.

I respectfully request that if you should approve the accompanying rules you will submit them to the Honorable Attorney-General for his concurrence.

J. A. WILLIAMSON,
Commissioner.

Hon. CARL SCHURZ,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 18, 1877.

SIR: I return herewith, approved by the Attorney-General and myself, the additional rules transmitted with your letter of the 25th ultimo, numbered from 17 to 27, inclusive, to govern your office in the disposal of suspended entries of public lands under various laws.

I am, sir, very respectfully, your obedient servant,

C. SCHURZ, *Secretary.*

Hon. J. A. WILLIAMSON,
Commissioner General Land Office.

ADDITIONAL RULES.

Under section 2450 of the Revised Statutes of the United States the following rules, additional to those established under the act of August 3, 1846, are provided for the government of the Commissioner of the General Land Office:

17. All entries where the preemption affidavit was taken before an officer authorized to administer oaths, when, on account of bodily infirmity, the party can not appear at the local office.

18. All entries where the preemption affidavit was taken before some officer other than the register or receiver, and the preemptor died before the defect could be cured.

19. All entries made upon land appropriated by entry or selection, but which entry or selection was subsequently canceled for illegality.

20. Preemption entries in which the party has shown good faith, but did not, through ignorance of the law, declare his intention to become a citizen of the United States until after he made his entry.

21. All entries based upon preemption proof where the party had failed to file a declaratory statement therefor, provided no adverse claim attached prior to entry.

22. All entries of unoffered land, based upon a second declaratory statement, where the same was filed between June 22, 1874, and June 30, 1875.

23. All preemption entries in which the affidavit is defective in not showing that the party was not the owner of 320 acres of land in any State or Territory, and had never had the benefit of the act, the form for which affidavit was furnished by the local land office.

24. All homestead entries in which, by reason of ignorance of the law, sickness of the party or his family, the final proof was not made within the period prescribed by statute, but in other respects the law has been complied with.

25. All homestead entries in which the party failed to settle on the land within the time required by law by reason of physical disability, and where good faith is shown.

26. All homestead entries by mistake made in the name of the wrong party, but where on final proof the error may be corrected without prejudice to another's right.

27. In all homestead entries where the husband has deserted his wife and children, if he have any, who have in good faith complied with the homestead law by residence upon and cultivation of the land, and final proof shall be made by the wife, or in case of her death, by her heirs or their legal guardians, such entry shall be confirmed, and patent shall issue to the parties entitled thereto.

J. A. WILLIAMSON,
Commissioner General Land Office.

We concur in the above rules, May 8, 1877.

C. SCHURZ,
Secretary of the Interior.
CHAS. DEVENS,
Attorney-General.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 28, 1888.

The following rules are hereby established, with the concurrence of the Secretary of the Interior and Attorney-General, as additional to the regulations in accordance with which suspended claims are decided under sections 2450 to 2457, Revised Statutes, as amended by the act of Congress of February 27, 1877, viz:

28. All desert-land entries made by a duly qualified party under the act of March 3, 1877, where the land was properly subject to entry under said act, and the land has been reclaimed according to law, but where any of the declarations, affidavits, or proofs required under the statute were omitted or are defective, in consequence of ignorance, accident, or mistake, and where from the death or absence of the claim-

ant the missing papers can not be supplied, or the defective papers amended, and where there is no adverse claim.

29. All desert-land entries in which the final proof and payment were not made within three years from date of entry, but in which the claimant was duly qualified, the land properly subject to entry under the statute, and subsequently reclaimed in time according to its requirements, in which the failure to make proof and payment in time was the result of ignorance, accident, or mistake, and in which there is no adverse claim.

30. All desert-land entries in which neither the reclamation nor the proof and payment were made within three years from date of entry, but where the entryman was duly qualified, the land properly subject to entry under the statute, the legal requirements as to reclamation complied with and the failure to do so in time was the result of ignorance, accident, or mistake, or of obstacles which he could not control. and where there is no adverse claim.

S. M. STOCKSLAGER,
Commissioner General Land Office.

We concur in the foregoing additional rules.

WM. F. VILAS,
Secretary of the Interior.
A. H. GARLAND,
Attorney-General.

MAY 12, 1888.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 10, 1890.

The following rules are hereby established, with the concurrence of the Secretary of the Interior and Attorney-General, as additional to the regulations in accordance with which suspended claims are decided under sections 2450 to 2457, Revised Statutes, as amended by the act of Congress of February 27, 1877, viz:

31. All preemption, homestead, commutation of homestead, and timber-culture entries, in which final proof has been made, and in which compliance with one or more legal requirements with reference to the final proof notice or in other respects does not appear in the papers, because of the neglect or inattention of the district land officers in allowing the final proof and payment to be made notwithstanding such defect, but where, in fact, notice was given, and in which no adverse claim appears. and the existing testimony shows a substantial, bona fide compliance with the law, as to residence and improvements, in preemption, homestead, and commutation of homestead entries, or as to the required planting, cultivating, and protecting of the timber, in timber-culture entries, or where such facts were satisfactorily shown to the district land officers by proof which was lost in transmission to the General Land Office, and can not now be renewed by reason of the death of witnesses or other cause.

32. All homestead and timber-culture entries in which the party has shown good faith, and a substantial compliance with the legal requirements of residence and cultivation of the land, in homestead entries, or the required planting, cultivating, and protecting of the timber, in timber-culture entries, but in which the party did not, through ignorance of the law, declare his intention to become a citizen of the United States until after he had made his entry, or, in homestead entries, did not from like cause perfect citizenship until after the making of final proof, and in which there is no adverse claim.

33. All homestead and timber-culture entries in which good faith appears, and a substantial compliance with law, and in which there is no adverse claim, but in which full compliance with law was not effected, or final proof made, within the period prescribed, or residence established on the land, in homestead entries, within the time fixed therefor by statute, or official regulation based thereon, and in which such failure was caused by ignorance of the law, by accident or mistake, by sickness of the party or his family, or by any other obstacle which he could not control.

LEWIS A. GROFF,
Commissioner of the General Land Office.

We concur in the foregoing additional rules.

JOHN W. NOBLE,
Secretary of the Interior.
W. H. H. MILLER,
Attorney-General.

APRIL 24, 1890.

UNITED STATES LOCAL LAND OFFICES.

ALABAMA.
Huntsville.
Montgomery.

ALASKA.
Circle.
Peavy.
Rampart City.
Sitka.

ARIZONA.
Prescott.
Tucson.

ARKANSAS.
Camden.
Dardanelle.
Harrison.
Little Rock.

CALIFORNIA.
Eureka.
Independence.
Los Angeles.
Marysville.
Redding.
Sacramento.
San Francisco.
Stockton.
Susanville.
Visalia.

COLORADO.
Akron.
Del Norte.
Denver.
Durango.
Glenwood Springs.
Gunnison.
Hugo.
Lamar.
Leadville.
Montrose.
Pueblo.
Sterling.

FLORIDA.
Gainesville.

IDAHO.
Blackfoot.
Boise City.
Cœur d'Alene.
Hailey.
Lewiston.

IOWA.
Des Moines.

KANSAS.
Colby.
Dodge City.
Topeka.
Wa-Keeney.

LOUISIANA.
Natchitoches.
New Orleans.

MICHIGAN.
Marquette.

MINNESOTA.
Crookston.
Duluth.
Marshall.
St. Cloud.

MISSISSIPPI.
Jackson.

MISSOURI.
Boonville.
Ironton.
Springfield.

MONTANA.
Bozeman.
Helena.
Kalispell.
Lewistown.
Miles City.
Missoula.

NEBRASKA.
Alliance.
Broken Bow.
Lincoln.
McCook.
North Platte.
O'Neill.
Sidney.
Valentine.

NEVADA.
Carson City.

NEW MEXICO.
Clayton.
Las Cruces.
Roswell.
Santa Fe.

NORTH DAKOTA.
Bismarck.
Devils Lake.
Fargo.
Grand Forks.
Minot.

OKLAHOMA.
Alva.
Enid.
Guthrie.
Kingfisher.
Mangum.
Oklahoma.
Perry.
Woodward.

OREGON.
Burns.
La Grande.
Lakeview.
Oregon City.
Roseburg.
The Dalles.

SOUTH DAKOTA.
Aberdeen.
Chamberlain.
Huron.
Mitchell.
Pierre.
Rapid City.
Watertown.

UTAH.
Salt Lake City.

WASHINGTON.
North Yakima.
Olympia.
Seattle.
Spokane.
Vancouver.
Walla Walla.
Waterville.

WISCONSIN.
Ashland.
Eu Claire.
Wausau.

WYOMING.
Buffalo.
Cheyenne.
Douglas.
Evanston.
Lander.
Sundance.

FORMS.

[No. 4-001.]

CASH APPLICATION.

No. ——. LAND OFFICE AT ———,
(*Date*) ———, *18*—.

I, ——— ———, of —— County, ——, do hereby apply to purchase the —— of section ——, in township ——, of range ——, containing —— acres, according to the returns of the surveyor-general, for which I have agreed with the register to give at the rate of —— per acre.

My post-office address is ———.[1]

I, ——— ———, register of the land office at ——, do hereby certify that the lot above described contains —— acres, as mentioned above, and that the price agreed upon is —— per acre.

——— ———, *Register.*

[No. 4-131.]

CASH RECEIPT.

No. ——. RECEIVER'S OFFICE AT ———,
(*Date*) ———, *18*—.

Received from ——— ———, of —— County, ——, the sum of —— dollars and —— cents; being in full for the —— quarter of section No. ——, in township No. ——, of range No. ——, containing —— acres and —— hundredths, at $—— per acre.

——— ———, *Receiver.*

$——.

[No. 4-189.]

CASH CERTIFICATE.

No. ——. LAND OFFICE AT ———,
(*Date*) ———, *18*—.

It is hereby certified that, in pursuance of law, ——— ———, of —— County, State of ——, on this day purchased of the register of this office the lot or —— of section No. ——, in township No. ——, of range No. ——, of the —— meridian, containing —— acres, at the rate of —— dollars and —— cents per acre, amounting to —— dollars and —— cents, for which the said ——— ——— ha— made payment in full as required by law.

Now, therefore be it known, that on the presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to receive a patent for the lot above described.

——— ———, *Register.*

[1] If residence is in city, street and number must be given.

[4-102 b.]

[To be used in all entries since August 30, 1890.]

AFFIDAVIT.

U. S. LAND OFFICE AT ———,
Date, ———, *189—*.

I, ——— ———, of ——, applying to enter (or file for) a ——, do solemnly swear that since August 30, 1890, I have not entered under the land laws of the United States, or filed upon, a quantity of land agricultural in character and not mineral, which, with the tracts now applied for, would make more than 320 acres, except —— for —— settled upon by me prior to August 30, 1890. Said settlement was commenced ——, and my improvements consisted of ——.

(Sign plainly with full Christian name.) ——— ———.

Sworn to and subscribed before me this ——— day of ———, 189—, at my office in ——— County, ———.

——— ———.

[No. 4-536.]

PREEMPTION RECEIPT AND CERTIFICATE.

$——. LAND OFFICE AT ———,
(*Date*) ———, *18—*.

Mr. ——— ——— has this day paid —— dollars, the register's and receiver's fees, to file a declaratory statement, the receipt whereof is hereby acknowledged.

——— ———, *Receiver.*

No. ——.

Mr. ——— ——— having paid the fees, has this day filed in this office his declaratory statement, No. ——, for —— of section ——, in township ——, of range ——, containing —— acres, settled upon ——, 18—, being —— offered.

——— ———, *Register.*

[No. 4-534.]

PREEMPTION DECLARATORY STATEMENT FOR OFFERED LANDS.

I, ——— ———, of ——, being ——, have, since the 1st day of ——, A. D. 18—, to wit, on the —— day of ——, A. D. 18—, settled and improved the —— quarter of section No. ——, in township No. ——, of range No. ——, in the district of lands subject to sale at the land office at ——, and containing —— acres, which land *had been rendered subject to private entry* prior to my settlement thereon; and I do hereby declare my intention to claim the said tract of land as a preemption right, under section 2259 of the Revised Statutes of the United States.

My post-office address is ———.[1]

——— ———.

Given under my hand this —— day of ——, A. D. 18—.

——— ———.

In presence of ——— ———, of ——— ———.
and ——— ———, of ——— ———.

[No. 4-535.]

PREEMPTION DECLARATORY STATEMENT FOR UNOFFERED LANDS.

I, ——— ———, of ——, being ——, have, on the —— day of ——, A. D. 18—, settled and improved the —— quarter of section No. ——, in township No. ——, of range No. ——, in the district of lands subject to sale at the land office at ——, and containing —— acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a preemption right under section 2259 of the Revised Statutes of the United States.

My post-office address is ———.[1]

——— ———.

Given under my hand this —— day of ——, A. D. 18—.

——— ———.

In the presence of ——— ———, of ——— ———.
and ——— ———, of ——— ———.

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[1] If residence is in city, street and number must be given.

[No. 4–061.]

(Sec. 2262, R. S.)

AFFIDAVIT REQUIRED OF PREEMPTION CLAIMANT.

I, ——— ———, claiming the right of preemption under section 2259 of the Revised Statutes of the United States, to the —— of section No. ——, of township No. ——, of range No. ——, subject to sale at ——, do solemnly —— that I have never had the benefit of any right of preemption under said section; that I am not the owner of 320 acres of land in any State or Territory of the United States, nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my own exclusive use or benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except myself.

(Have claimant sign here.) ——— ———.

I, ———, of ———, at ———, do hereby certify that the above affidavit was subscribed and sworn to before me this ——— day of ———, A. D. 18—, at my office in ——— County, ———.

——— ———.

[4–374.]

PREEMPTION PROOF.

TESTIMONY OF WITNESS.

——— ———, being called as a witness in support of the preemption claim of ——— ——— to the ——, testifies as follows:

Q. 1. What is your post-office address?—A. ———.

Q. 2. How long have you known claimant, and what is —— age?—A. ———.

Q. 3. Is claimant married or single? 2d. Of whom does —— family (if any) consist? 3d. Is ——— a native or naturalized citizen?—A. 1st, ———; 2d, ———; 3d, ———.

Q. 4. Are you familiar with the character of the land? (State specifically the character of this land—whether it is timber, prairie, grazing, or farming.) 2d. Are there any indications of coal, mineral, or salines thereon? If so, state plainly the nature.) 3d. Is it more valuable for agricultural than mining purposes? 4th. Do you reside in its vicinity? 5th. Is it within the limits of an incorporated town or selected town site, or used in any way for purposes of trade or business? (Answer to the point and in detail.)—A. 1st, ———; 2d, ———; 3d, ———; 4th, ———; 5th, ———.

Q. 5. Is claimant the owner of 320 acres in this or any other State or Territory? 2d. Did ——— leave or abandon a residence on ——— own land in this ——— to reside on the land herein described? 3d. Has ——— ever filed for other land under the preemption law? 4th. Has ——— mortgaged or agreed to sell the land herein described?—A. 1st, ———; 2d, ———; 3d, ———; 4th, ———.

Q. 6. When did the claimant first settle on ——— claim? 2d. What was ——— first act of settlement? 3d. What improvements has ——— on the land? 4th. What is the value of such improvements? 5th. When did ——— commence ——— residence thereon? 6th. Has ——— residence been continuous? 7th. What use has ——— made of the land? 8th. How much land has ——— broken and cultivated? (Answer to the point and in detail.)—A. 1st, ———; 2d, ———; 3d, ———; 4th, $——; 5th, ———; 6th, ———; 7th, ———; 8th, ——— acres.

Q. 7. Are you in any way interested in this claim, or by blood or marriage related to claimant?—A. ———.

(Sign plainly with full Christian name.) ——— ———.

I hereby certify that the foregoing testimony was read to the witness before being subscribed, and was sworn to before me this —— day of ——, 189—, at my office in ——— County, ———.

——— ———.

TESTIMONY OF CLAIMANT.

——— ———, being called as a witness in —— own behalf in support of —— preemption claim to the ——, testifies as follows:

Q. 1. What is your name (be careful to give it in full, correctly spelled, in order that it may be here written exactly as you wish it written in the patent which you desire to obtain) and age?—A. ———.

Q. 2. Are you the head of a family (if so, of whom does it consist) or a single person?—A. ———.

Q. 3. Are you a native-born citizen of the United States? If so, in what State or Territory were you born?[1]—A. ———.

Q. 4. Is your preemption claim, above described, within the limits of an incorporated town or selected site of a city or town, or used in any way for trade and business? 2d. Did you leave other land of your own to reside on your present claim? 3d. Have you ever made a preemption filing for land other than you now seek to enter? If so, describe the same. 4th. State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land. (Answer to the point and in detail.)—A. 1st, ———; 2d, ———; 3d, ———; 4th, ———.

Q. 5. When did you first make settlement on the above-described land? 2d. What was your first act of settlement? 3d. Were there any improvements on the land when you settled? If so, state who then owned them, and whether you purchased the same. 4th. What improvements have you made on the land since settlement, and what is the value of same?—A. 1st, ———; 2d, ———; 3d, ———; 4th, ———.

Q. 6. When did you first establish an actual residence on the land you now seek to enter? 2d. Has your residence thereon since been continuous? 3d. What use have you made of the land? 4th. How much of the land, if any, have you broken and cultivated since settlement, and what kind and quantity of crops have you raised? 5th. Have you any personal property of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.—A. 1st, ———; 2d, ———; 3d, ———; 4th, ———; 5th, ———.

Q. 7. Are either of the parties who have testified as your witnesses in this case related to you by blood or marriage? If so, state how related.—A. ———.

Q. 8. Describe by legal subdivisions, or by number, kind of entry and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.—A. ———.

(Sign plainly with full christian name.) ——— ———.

I hereby certify that each question and answer in the foregoing testimony was read to claimant before being subscribed, and was sworn to before me this ——— day of ———, 189—, at my office in ——— County, ———.

——— ———.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CHAPTER 4.

SEC. 5392. Every person who, having taken oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully, and contrary to such oath, states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See § 1750.)

[4–007.]

HOMESTEAD.

Application No. ———.

LAND OFFICE AT ———,
——— ———, *189—*.

I, ——— ———, of ——— ———, do hereby apply to enter, under section 2289, Revised Statutes of the United States, the ——— of section ———, in township ——— of range ———, containing ——— acres.

My post-office address is[2] ———.

——— ———.

LAND OFFICE AT ———,
——— ———, *189—*.

I, ——— ———, register of the land office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under section 2289, Revised Statutes of the United States, and that there is no prior valid adverse right to the same.

——— ———, *Register*.

[1] In case the party is of foreign birth, a certified transcript from the court records of his declaration of intention to become a citizen, or of his naturalization, or a copy thereof, certified by the officer taking this proof, must be filed with the case.

[2] If residence is in city, street and number must be given.

[4-063.]

HOMESTEAD AFFIDAVIT.

U. S. LAND OFFICE AT ———,
———, 189—.

I, ——— ———, of ——, having filed my application No. ——, for an entry under section 2289, Revised Statutes of the United States, do solemnly swear that I am not the proprietor of more than one hundred and sixty acres of land in any State or Territory; that I am[1] ——— ———; that my said application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that I will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that I am not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that I do not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for myself, and that I have not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation or syndicate whatsoever, by which the title which I might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except myself; and further, that since August 30, 1890, I have not entered under the land laws of the United States, or filed upon, a quantity of land, agricultural in character, and not mineral, which, with the tracts now applied for, would make more than three hundred and twenty acres, except ——— ———, and that I have not heretofore made any entry under the homestead laws except ——— ———.

(Sign plainly with full christian name.)

———— ————.

Sworn to and subscribed before me this —— day of ——, 189—, at my office at ———, in ——— County, ———.

————— ————.

———

[4-137.]

Receiver's receipt, No. ——. Application, No. ——.

HOMESTEAD.

RECEIVER'S OFFICE, ———,
——— ——, *189*—.

Received of ——— ——— the sum of ——— dollars —— cents, being the amount of fee and compensation of register and receiver for the entry of ——— of section —— in township —— of range ——, under section No. 2290, Revised Statutes of the United States.

———— ————, *Receiver.*

$——.

NOTE.—It is required of the homestead settler that he shall reside upon and cultivate the land embraced in his homestead entry for a period of five years from the time of filing the affidavit, being also the date of entry. An abandonment of the land for more than six months works a forfeiture of the claim. Further, within two years from the expiration of the said five years he must file proof of his actual settlement and cultivation, failing to do which, his entry will be canceled. If the settler does not wish to remain five years on his tract, he can, at any time after fourteen months, pay for it with cash or land warrants, upon making proof of settlement and cultivation from date of filing affidavit to the time of payment.

[Marginal notes in red ink.]

See note in red ink, which registers and receivers will read and explain thoroughly to persons making application for lands where the affidavit is made before either of them.

Timber land embraced in a homestead, or other entry not consummated, may be cleared in order to cultivate the land and improve the premises, *but for no other purpose.*

If, after clearing the land for cultivation, there remains more timber than is required for improvement, there is no objection to the settler disposing of the same. But the question whether the land is being cleared of its timber *for legitimate purposes* is a question *of fact*, which is liable to be raised at any time. If the timber is cut and removed *for any other purpose*, it will subject the entry to cancellation, and the person who cut it will be *liable to civil suit* for recovery of the value of said timber, *and also to criminal prosecution* under section 2461 of the Revised Statutes.

---

[1] Here insert statement that affiant is a citizen of the United States, or that he has filed his declaration of intention to become such, and that he is the head of a family, or is over twenty-one years of age, as the case may be. It should be stated whether applicant is *native born* or not, and if not, a certified copy of his certificate of naturalization, or declaration of intention, as the case may be, must be furnished. (See page 45, circular of January 1, 1889.)

[4–102 c.]

[To be used in cases of commuted homestead entries in Oklahoma Territory.]

AFFIDAVIT REQUIRED OF CLAIMANT.

[Section 21 of act of May 2, 1890.]

I, ——— ———, who on ——— per cash entry No. ——, commuted, under section 21 of the act of May 2, 1890 (Statutes, first session Fifty-first Congress, p. 81), my homestead entry No. ——, made upon the ———, section ——, township ——, range ——, do solemnly swear that no part of said lands was, at date of purchase, occupied, required, or intended for town-site purposes, and that said entry, in whole or in part, was not made for the benefit of any other person, persons, or corporation, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, for town-site or other purposes; that I had not then directly or indirectly made, nor was it my intention to make, any agreement or contract in any way or manner with any person or persons, corporation, or syndicate whatsoever, except as provided in section 2288 of the Revised Statutes, by which the title which I might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except myself.

——— ———.

Subscribed and sworn to before me this —— day of ———, 189—.

——— ———.

———

[4–102.]

AFFIDAVIT.

LAND OFFICE AT ———,
——— ——, *189*—.

I, ——— ———, of ———, applying to enter (or file for) a homestead, do solemnly swear that I did not enter upon and occupy any portion of the lands described and declared open to entry in the President's proclamation dated March 23, 1889, prior to 12 o'clock, noon, of April 22, 1889.

——— ———.

Sworn to and subscribed before me this —— day of ———, 189—.

——— ———.

NOTE.—This affidavit must be made before the register or receiver of the proper district land office, or before some officer authorized to administer oaths and using a seal.

———

[4–348.]

HOMESTEAD NOTICE OF INTENTION TO MAKE FINAL PROOF.

LAND OFFICE AT———,
——— ——, *189*—.

I, ——— ———, of ———, who made homestead application No. —— for the ———, do hereby give notice of my intention to make final proof to establish my claim to the land above described, and that I expect to prove my residence and cultivation before ———, ——— at ———, on ———, 189—, by two of the following witnesses:

——— ———, of ———.
——— ———, of ———.

——— ———.
[Signature of claimant.]

LAND OFFICE AT ———,
——— ——, *189—*.

Notice of the above application will be published in the ———, printed at ———, which I hereby designate as the newspaper published nearest the land described in said application.

——— ———, *Register*.

NOTICE TO CLAIMANT.—Give time and place of proving up and name the title of the officer before whom proof is to be made; also give names and post-office address of four neighbors, two of whom must appear as your witnesses.

[4-347.]

NOTICE FOR PUBLICATION.

LAND OFFICE AT ———,
——— ——, *189—*.

Notice is hereby given that the following-named settler has filed notice of his intention to make final proof in support of his claim, and that said proof will be made before ——— ——— at ———, on ———, 189—, viz: ———, for the ———.

He names the following witnesses to prove his continuous residence upon and cultivation of said land, viz:

———————, of ———————.
———————, of ———————.
———————, of ———————.
———————, of ———————.

NOTE.—This notice must also be posted in a conspicuous place in the land office for a period of thirty days prior to the date of final proof.

HOMESTEAD CONSOLIDATED NOTICE FOR PUBLICATION.

LAND OFFICE AT ———,
———, *18—*.

Notice is hereby given that the following-named settlers have filed notice of intention to make final proof on their respective claims before ——— ———, at ———, on ——— ——, 18—, viz:

——— ———, on homestead application No. ——, for the ——— ———.
Witnesses: ——— ———, of ———, and ——— ———, of ———.
——— ———, on preemption declaratory statement No. ——, for the ——— ———.
Witnesses: ——— ———, of ———, and ——— ———, of ———.

——— ———, *Register*.

[4-227.]

CERTIFICATE AS TO POSTING OF NOTICE.

LAND OFFICE AT ———,
——— ——, *189—*.

I, ——— ———, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of thirty days, I having first posted said notice on the —— day of ———, 189—.

——— ———, *Register*.

[4-070.]

HOMESTEAD PROOF.

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

[Section 2291 of the Revised Statutes of the United States.]

I, ——— ———, having made a homestead entry of the ———, section No. ——, in township No. ——, of range No. ——, subject to entry at ———, under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section No. 2291 of the Revised Statutes of the United States, and for that purpose do solemnly ——— that I am a citizen of the United States; that I have made actual settlement upon and have cultivated said land, having resided thereon since the —— day of ———, 18—, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States, except ——— ———.

(Sign plainly full Christian name.) ——— ———.

I, ———, of ———, do hereby certify that the above affidavit was subscribed and sworn to before me this ——— day of ———, 189—, at my office at ———, in ——— County, ———.

——— ———.

———

[4-369.]

HOMESTEAD PROOF.

TESTIMONY OF CLAIMANT.

——— ———, being called as a witness in his own behalf in support of homestead entry, No. ——, for ——, testifies as follows:

Q. 1. What is your name, age, and post-office address?—A. ———.

Q. 2. Are you a *native-born* citizen of the United States; and if so, in what State or Territory were you born?[1]—A. ———.

Q. 3. Are you the identical person who made homestead entry, No. ——, at the —— land office on the —— day of ——, 18—, and what is the true description of the land now claimed by you?—A. ———.

Q. 4. When was your house built on the land and when did you establish actual residence therein? (Describe said house and other improvements which you have placed on the land, giving total value thereof.)—A. ———.

Q. 5. Of whom does your family consist; and have you and your family resided continuously on the land since first establishing residence thereon? (If unmarried, state the fact.)—A. ———.

Q. 6. For what period or periods have you been absent from the homestead since making settlement, and for what purpose; and if temporarily absent, did your family reside upon and cultivate the land during such absence?—A. ———.

Q. 7. How much of the land have you cultivated each season, and for how many seasons have you raised crops thereon?—A. ———.

Q. 8. Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade and business?—A. ———.

Q. 9. What is the character of the land? Is it timber, mountainous, prairie, grazing, or ordinary agricultural land? State its kind and quality, and for what purpose it is most valuable.—A. ———.

Q. 10. Are there any indications of coal, salines, or minerals of any kind on the land? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)—A. ———.

Q. 11. Have you ever made any other homestead entry? (If so, describe the same.)—A. ———.

---

[1] (In case the party is of foreign birth a certified transcript from the court records of his declaration of intention to become a citizen, or of his naturalization, or a copy thereof, certified by the officer taking this proof, must be filed with the case. Evidence of *naturalization* is only required in final (*five year*) homestead cases.)

Q. 12. Have you sold, conveyed, or mortgaged any portion of the land; and if so, to whom and for what purpose?—A. ———.

Q. 13. Have you any personal property of any kind elsewhere than on this claim? (If so, describe the same, and state where the same is kept.)—A. ———.

Q. 14. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.—A. ———.

(Sign plainly with full Christian name.) ——— ———.

I hereby certify that the foregoing testimony was read to the claimant before being subscribed, and was sworn to before me this ——— day of ———, 189—, at my office at ———, in ——— County, ———.

——— ———.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See § 1750.)

TESTIMONY OF WITNESS.

——— ———, being called as a witness in support of the homestead entry of ——, for ——, testifies as follows:

Q. 1. What is your name, age, and post-office address?—A. ———.

Q. 2. Are you well acquainted with the claimant in this case and the land embraced in his claim?—A. ———.

Q. 3. Is said tract within the limits of an incorporated town or selected site of a city or town or used in any way for trade or business?—A. ———.

Q. 4. State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land?—A. ———.

Q. 5. When did claimant settle upon the homestead and at what date did he establish actual residence thereon?—A. ———.

Q. 6. Have claimant and family resided continuously on the homestead since first establishing residence thereon? (If settler is unmarried, state the fact.)—A. ———.

Q. 7. For what period or periods has the settler been absent from the land since making settlement, and for what purpose; and if temporarily absent, did claimant's family reside upon and cultivate the land during such absence?—A. ———.

Q. 8. How much of the homestead has the settler cultivated and how many seasons did he raise crops thereon?—A. ———.

Q. 9. What improvements are on the land and what is their value?—A. ———.

Q. 10. Are there any indications of coal, salines, or minerals of any kind on the homestead? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)—A. ———.

Q. 11. Has the claimant mortgaged, sold, or contracted to sell any portion of said homestead?—A. ———.

Q. 12. Are you interested in this claim, and do you think the settler has acted in entire good faith in perfecting this entry?—A. ———.

(Sign plainly with full christian name.) ——— ———.

I hereby certify that the foregoing testimony was read to the witness before being subscribed, and was sworn to before me this ——— day of ———, 189—, at my office at ———, in ——— County, ———. ——— ———.

——— ———.

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit. The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.)

[4–140.]

Final receiver's receipt No. ———. Application No. ———.

HOMESTEAD.

RECEIVER'S OFFICE, ———,
——— ——, *189—*.

Received of ——— ——— the sum of ——— dollars —— cents, being the balance of payment required by law for the entry of ——— of section ——, in township —— of range ——, containing ——— acres, under section 2291 of the Revised Statutes of the United States.

$——. ——— ———, *Receiver*.

[4–140 a.]

No. ——.

RECEIVER'S OFFICE AT ———,
——— ——, *189—*.

Received from ——— ———, of ——— County, ———, the sum of ——— dollars and —— cents, being the ——— installment of the purchase money under homestead application, No. ———, for the ——— quarter of section No. ——, in township No. —— of range No. ——, containing —— acres and —— hundredths, at $—— per acre, under the act of Congress of ——— ——.

$——. ——— ———, *Receiver*.

[4–196.]

Final certificate No. ———. Application No. ———.

HOMESTEAD.

LAND OFFICE AT ———,
——— ——, *189—*.

It is hereby certified that pursuant to the provisions of section No. 2291, Revised Statutes of the United States, ——— ——— has made payment in full for ——— of section No. ——, in township No. —— of range No. ——, of the —— principal meridian ———, containing ——— acres.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said ——— ——— shall be entitled to a patent for the tract of land above described.

——— ———, *Register*.

[4–069.]

[To be used in cases of commuted homestead entries. For taking the testimony of claimant and his witnesses in making commutation proof use the prescibed forms for "Homestead Proof."]

AFFIDAVIT REQUIRED OF CLAIMANT.

[Section 2301 of the Revised Statutes of the United States.]

I, ——— ———, claiming the right to commute, under section 2301 of the Revised Statutes of the United States, my homestead entry, No. ——, made upon the ——— of section ——, township ——, range ——. do solemnly swear that I made settlement upon said land on the —— day of ———, 18—, and that since such date, to wit, on the —— day of ———, 18—, I have built a house on said land, and have continued to reside therein up to the present time; that I have broken and cultivated ——— acres of said land, and that no part of said land has been alienated except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler.

I further swear that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States, except ———.

(Sign plainly with full christian name.) ——— ———.

Subscribed and sworn to before me this ——— day of ———, 189—, at my office at ———, in ——— County, ———.

——— ———.

[4-066.]

ADJOINING FARM HOMESTEAD.

[Affidavit.]

LAND OFFICE AT ———,
——— ——, *189—*.

I, ——— ———, of ———, having filed my application, No. ——, for an entry under the provisions of the act of Congress approved May 20, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," do solemnly swear that ———; that said entry is made for my own exclusive benefit and not, directly or indirectly, for the benefit or use of any other person or persons whomsoever; neither have I heretofore perfected or abandoned an entry made under this act; that the land embraced in the said application No. —— is intended for an adjoining-farm homestead; that I now own and reside upon an original farm containing ——— acres *and no more;* that the same comprises the ——— of section ——, township ——, range ——, and is contiguous to the tract this day applied for.

——— ———.

Sworn to and subscribed this —— day of ———, 189—, before—

——— ———.
——— *of the Land Office.*

[4-067.]

FINAL AFFIDAVIT REQUIRED OF ADJOINING FARM HOMESTEAD CLAIMANTS.

[Section 2291, Revised Statutes.]

I, ——— ———, having made a homestead entry of the ———, section No. —— in township No. —— of range No. ——, subject to entry at ———, for the use of an adjoining farm owned and occupied by me on the ——— of section No. —— in township No. —— of range No. ——, under section 2289 of the Revised Statutes, do now apply to perfect my claim thereto by virtue of section No. 2291 of the same, and for that purpose do solemnly ——— that I am a citizen of the United States; that I have continued to own and occupy the land constituting my original farm, having resided thereon since the —— day of ———, 18—, to the present time, and have made use of the said entered tract as a part of my homestead, and have improved the same in the following manner, viz: ———; that no part of said land has been alienated, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry under the homestead laws.

——— ———.

I, ——— ———, ——— of the land office at ———, do hereby certify that the above affidavit was taken and subscribed before me this —— day of ———, 18—.

——— ———.

[4-071.]

[To be used in making FINAL PROOF in cases where preemption filings have been changed to homestead entries under the acts of March 3, 1877, and May 27 and June 14, 1878.]

PREEMPTION-HOMESTEAD AFFIDAVIT.

I, ——— ———, having changed my preemption declaratory statement, No. ——, filed the —— of ———, 18—, alleging settlement the —— day of ———, 18—, for the ———, section No. —— in township No. —— of range No. ——, to homestead entry original No. ——, district lands subject to entry at ——— under the acts of Congress approved March 3, 1877, and May 27, 1878, do solemnly swear that I have never had the benefit of any right of preemption under section 2259 of the Revised Statutes of the United States; that I have not heretofore filed a preemption declaratory statement for another tract of land; that I was not the owner of three hundred and twenty acres of land in any State or Territory of the United States at any time during the

above-mentioned period of settlement under the preemption statutes; that I did not remove from my own land within the State of ——— to make the settlement above referred to; nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my exclusive use or benefit; and that I did not, during the period of preemption settlement above mentioned, directly or indirectly, make any agreement or contract in any way or manner with any person or persons whatsoever by which the title which I might acquire from the Government of the United States would inure, in whole or in part, to the benefit of any person except myself.

——— ———.

I, ——— ———, of the land office at ———, do hereby certify that the above affidavit was subscribed and sworn to before me this —— day of ———, 18—.

——— ———.

[4–018.]

ADDITIONAL HOMESTEAD.

[Act of ———.]

Application No. ———.] LAND OFFICE AT ———,
——— ——, *18*—.

I, ——— ———, of ———, do hereby apply to enter, under the act of ———, the ——— of section —— in township —— of range ——, containing ——— acres, as additional to my entry, No. ——, for the ——— of ———, section —— in township —— of range ——.

My post-office address is [1] ———.

——— ———.

LAND OFFICE AT ———,
——— ——, *18*—.

I, ——— ———, register of the land office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under the act of ———, and that there is no prior valid adverse right to the same.

——— ———, *Register.*

[4–086.]

[Affidavit.]

ADDITIONAL HOMESTEAD

[Act of March 3, 1879.]

LAND OFFICE AT ———,
———, *189*—.

I, ——— ———, of ———, having filed my application, No. ——, for an entry under the act of March 3, 1879, do solemnly swear that ———; that I did not serve for a period of ninety days or more in the Army or Navy of the United States during the war of the rebellion and receive an honorable discharge therefrom; that said application No. —— is made for my exclusive benefit, and that said entry is made for the purpose of actual settlement and cultivation as an addition to my homestead, No. ——, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever, and that I have not heretofore had the benefit of said act.

——— ———.

Sworn to and subscribed this —— day of ———, 189—, before—

——— ———.

NOTE.—If this affidavit be acknowledged before the clerk of the court, as provided for by section 2294, United States Revised Statutes, the homestead party must expressly state herein that he or some member of his family is residing upon the land applied for, or upon the land embraced in his original entry, and that bona fide improvement and settlement have been made. He must also state why he is unable to appear at the land office.

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[1] If residence in city, street and number must be given.

[4–546.]

SOLDIER'S DECLARATORY STATEMENT.

I, ——— ———, of ——— County and State or Territory of ———, do solemnly swear that I served for a period of ——— in the Army of the United States during the war of the rebellion, and was honorably discharged therefrom, as shown by a statement of such service herewith, and that I have remained loyal to the Government; that I have never made homestead entry or filed a declaratory statement under sections 2290 and 2304 of the Revised Statutes; that I am not the proprietor of more than one hundred and sixty acres of land in any State or Territory; that since August 30, 1890, I have not entered under the land laws of the United States, or filed upon, a quantity of land, agricultural in character, and not mineral, which, with the tracts herein described, would make more than three hundred and twenty acres; that I have located as a homestead under said statute the ———, and hereby give notice of my intention to claim and enter said tract; that this location is made for my exclusive use and benefit, for the purpose of my actual settlement and cultivation, and not, either directly or indirectly, for the use and benefit of any other person.

My present post-office address is ———.

——— ———.

Sworn to and subscribed before me this —— day of ———, 189—.

[SEAL.] ——— ———.

NOTE.—This form may be used where the soldier files his own declaratory statement.

[4–545.]

SOLDIER'S DECLARATORY STATEMENT.

[Filed by an agent.]

I, ——— ———, of ——— County and State or Territory of ———, do solemnly swear that I served for a period of ——— in the Army of the United States during the war of the rebellion, and was honorably discharged therefrom, as shown by a statement of such service herewith, and that I have remained loyal to the Government; that I have never made homestead entry or filed a declaratory statement under sections 2290, 2304, or 2309 of the Revised Statutes; that I am not the proprietor of more than one hundred and sixty acres of land in any State or Territory; that since August 30, 1890, I have not entered under the land laws of the United States, or filed upon, a quantity of land, agricultural in character, and not mineral, which, with the tracts herein authorized to be located, would make more than three hundred and twenty acres; that I have appointed, by power of attorney, duly executed on the —— day of —— (or I do hereby appoint), ———, of ——— County and State of ———, my true and lawful agent, under section 2309 aforesaid, to select for me and in my name, and file my declaratory statement for a homestead right under the aforesaid sections; and I hereby give notice of my intention to claim and enter said tract under said statute; that the location herein authorized is made for my exclusive use and benefit, for the purpose of my actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; that my said attorney has no interest, present or prospective, in the premises, and that I have made no arrangement or agreement with him or any other person for any sale or attempted sale or relinquishment of my claim in any manner or for any consideration whatever, and that I have not signed this declaration in blank.

——— ———.

Sworn to and subscribed before me this —— day of ———, 189—, and I certify that the foregoing declaration was fully filled out before being subscribed or attested.

[OFFICIAL SEAL.] ——— ———.

By virtue of the foregoing, and of a certain power of attorney therein named, duly executed on the ——— day of ——, and filed herewith, I hereby select the ——— as the homestead claim of ———, the aforesaid, and do solemnly swear that the same is filed in good faith for the purposes therein specified, and that I have no interest or authority in the matter, present or prospective, beyond the filing of the same as the true and lawful agent of the said ———, as provided by section 2309 of the Revised Statutes of the United States.

———, *Agent.*

Sworn to and subscribed before me this —— day of ———, 189—.

[OFFICIAL SEAL.] ——— ———.

NOTE.—This form may be used where the declaratory statement is filed by an agent under section 2309, Revised Statutes.

[4-015.]

HOMESTEAD.

[Soldiers' and sailors' homesteads under act June 8, 1872.]

Application No. ——.] LAND OFFICE AT ———,
——— ——, *189—*.

I, ——— ———, of ———, do hereby apply to enter, under the provisions of the act of June 8, 1872, amendatory of an act entitled "An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to secure homesteads on the public domain," the ——— of section ——, in township ——, of range ——, containing ——— acres, and for which I have filed my declaration on the —— day of ———, 18—, through ———, my duly appointed agent.

My postoffice address is ———.[1]

——— ———.

LAND OFFICE AT ———,
——— ——, *189—*.

I, ——— ———, register of the land office, do hereby certify that ——— filed the above application at this office on the —— day of ———, 18—, and that he has taken the oath and paid the fees and commissions prescribed by law.

——— ———, *Register*.

[4-065.]

AFFIDAVIT.

[Soldiers' and sailors' homesteads under act June 8, 1872.]

No. ——.] LAND OFFICE AT ———,
——— ——, *18—*.

I, ——— ———, of ———, do solemnly swear that I am a ———, of the age of twenty-one years, and a citizen of the United States; that I served for ninety days in Company —, ——— Regiment United States Volunteers; that I was mustered into the United States military service the —— day of ———, 18—, and was honorably discharged therefrom on the —— day of ———, 18—; that I have since borne true allegiance to the Government; and that I have made my application, No. ——, to enter a tract of land under the provisions of the act of June 8, 1872, giving homesteads to honorably discharged soldiers and sailors, their widows and orphan children; that I have made said application in good faith; and that I take said homestead for the purpose of actual settlement and cultivation, and for my own exclusive use and benefit, and for the use and benefit of no other person or persons whomsoever; and that I have not heretofore acquired a title to a tract of land under this or the original homestead law, approved May 20, 1862, or the amendments thereto, or voluntarily relinquished or abandoned an entry heretofore made under said acts. So help me God.

——— ———.

Sworn and subscribed to before me, ———, register of the land office at ———, this —— day of ———, 18—.

——— ———, *Register*.

[4-008.]

APPLICATION.

[Additional entry under section 2306 of the Revised Statutes of the United States.]

No. ——.] LAND OFFICE, ———,
——— ——, *18—*.

I, ——— ———, of ——— County, State of ———, being entitled to the benefits of section 2306 of the Revised Statutes of the United States, granting additional lands

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[1] If residence in city, street and number must be given.

to soldiers and sailors who served in the war of the rebellion, do hereby apply to enter the ——— as additional to my original homestead on the ———, which I entered ———, 18—, per homestead No. ——.

My post-office address is[1] ———.

——— ———.

LAND OFFICE, ———,
——— ——, *18—*.

I, ——— ———, register of the land office at ———, do hereby certify that ——— filed the above application before me for the tract of land therein described, and that he has paid the fee and commissions prescribed by law.

——— ———, *Register.*

[4–197.]

CERTIFICATE.

[Additional entry under section 2306 of the Revised Statutes of the United States.]

Final certificate No. ——.] [Application No. ——.

LAND OFFICE, ———,
——— ——, *18—*.

It is hereby certified that, pursuant to the provisions of section 2306 of the Revised Statutes of the United States, ——— has paid the fee and commissions and made entry of the ——— of section ——, of township ——, of range ——, containing ——— acres, which added to the quantity embraced in his original homestead No. ——, on which he has made final proof, as per certificate No. ——, does not exceed 160 acres.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said ——— shall be entitled to a patent for the tract of land above described.

——— ———, *Register.*

[4–102 a.]

AFFIDAVIT.

[Act of June 20, 1890.]

LAND OFFICE AT ———,
(*Date*) ———, *189—*.

I, ——— ———, of ———, applying to enter (or file for) a homestead, do solemnly swear that I did not enter upon and occupy any portion of the lands restored to the public domain and made subject to entry by the act approved June 20, 1890—Public, No. 170—prior to December 20, 1890.

——— ———.

Sworn to and subscribed before me this —— day of ———, 189—.

——— ———.

[4–343.]

UNITED STATES LAND OFFICE, ———,
——— ——, *18—*.

SIR: Your homestead entry No. ——, sec. ——, T. ——, R. ——, was made ——— ——, 18—, and the five years during which residence and cultivation were required by law expired ——— ——, 18—.

The law provides that patent shall issue upon the presentation of proper proof of residence and cultivation within *two* years after the expiration of the five years referred to.

---

[1] If residence in city, street and number must be given.

If this final proof is not presented within the time prescribed this office will be warranted in treating the entry as voluntarily abandoned on your part.

——— ———, *Register.*
——— ———, *Receiver.*

To ——— ———,
——— ———.

[4-344.]

FOR SEVEN-YEAR NOTICE.

UNITED STATES LAND OFFICE, ———,
——— ——, *18—.*

SIR: You are hereby notified that the homestead law requires final proof of settlement and cultivation to be made within two years after the expiration of five years from date of entry, and that in case of your entry, No. ——, for ——— of section ——, township ——, range ——, dated ———, 18—, the time fixed by the statute has expired without the requisite proof being filed by you. You will therefore, within thirty days from date of service of this notice, show cause before us why your claim shall not be declared forfeited and your entry canceled for noncompliance with the requirements of the law, so that the case may be reported to the Commissioner of the General Land Office for the proper action.

——— ———, *Register.*
——— ———, *Receiver.*

To ——— ———,
——— ———.

[4-344.]

FOR EIGHT-YEAR NOTICE.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,
——— ——, *189—.*

SIR: You are hereby notified that the homestead law requires final proof of settlement and cultivation to be made within three years after the expiration of five years from date of entry (see act of July 26, 1894, 28 Stat., 123), and that in case of your entry, No. ——, for ———, of section ——, township ——, range ——, dated ———, 18—, the time fixed by the statute has expired without the requisite proof being filed by you. You will, therefore, within thirty days from date of service of this notice, show cause before us why your claim shall not be declared forfeited and your entry canceled for noncompliance with the requirements of the law, so that the case may be reported to the Commissioner of the General Land Office for the proper action.

——— ———, *Register.*
——— ———, *Receiver.*

To ——— ———,
——— ———.

[4-385.]

TIMBER-CULTURE PROOF—TESTIMONY OF CLAIMANT.

[Act of June 14, 1878.]

——— ———, being called as a witness in —— own behalf, in support of ——— timber-culture entry No. ——, for —— section ——, township ——, of range ——, —— meridian, in the district of lands subject to entry at ———, testifies as follows:

Q. 1. What is your name (written in full and correctly spelled), your age, and post-office address?—A. ———.

Q. 2. Describe your timber-culture entry by legal subdivisions, giving the date thereof and the number of acres embraced therein.—A. ———.

Q. 3. Are you a *native-born* citizen of the United States? If so, in what State or Territory were you born?[1]—A. ———.

Q. 4. What number of acres of said land was broken by you during the first year, what number broken during the second year, and what number broken during the third year, respectively, after the date of your entry?—A. ———.

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[1] In case the party is of foreign birth a certified transcript of the court records of his declaration of intention to become a citizen, or naturalization, or a copy thereof, certified by the officer taking this proof, must be filed with the case.

Q. 5. How many acres of said tract were cultivated during the *second* year of your entry, and how many the *third* year?—A. ———.

Q. 6. How many acres of said tract were planted to trees, seeds, or cuttings during the *third* year of your entry? State the kind or kinds of trees, seeds, or cuttings planted; and how you know the area or number of acres so planted during said *third* year.—A. ———.

Q. 7. How many acres of said tract were planted to trees, seeds, or cuttings during the *fourth* year of your entry? State the kind or kinds of trees, seeds, or cuttings planted; and how you know the area or number of acres so planted during said *fourth* year.—A. ———.

Q. 8. State what was done *each year*, subsequent to the fourth year, in the way of replanting and cultivating the tract planted to trees, seeds, or cuttings.—A. Fifth year, ———; sixth year, ———; seventh year, ———; eighth year, ———; ninth year, ———; tenth year, ———; eleventh year, ———; twelfth year, ———.

Q. 9. Describe the condition of the trees now growing on said tract, giving their average diameter and height, as near as you can, the kind or kinds of trees, the number of trees per acre now growing thereon, and state how you know the facts to which you testify.—A. ———.

Q 10. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.—A. ———.

(Sign plainly with full Christian name.) ——— ———.

I hereby certify that each question and answer in the foregoing testimony was read to the claimant before ——— signed ——— name thereto, and that the same was subscribed and sworn to before me this —— day of ———, 189—, at my office in ——— County, ———.

———— ————,

————— ————.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following act of Congress, which is made by statute specifically applicable to all oaths, affirmations, and affidavits required or authorized under the timber-culture act:

ACT OF MARCH 3, 1857 (11 STATUTES, P. 250).

"SEC. 5. *And be it further enacted*, That in all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them, of any local land office in the United States or any Territory thereof, or where any oath, affirmation, or affidavit shall be made or taken before any person authorized by the laws of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office or other proper officer of the Government of the United States, as under the laws of the United States, in anywise relating to or affecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and if any person or persons shall, taking such oath, affirmation, or affidavit, knowingly, willfully, or corruptly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offense by the laws of the United States." (See also section 5392, U. S. Revised Statutes.)

FINAL AFFIDAVIT.

I, ——— ———, having on the —— day of ———, 18—, made a timber-culture entry, No. ——, of the —— of section ——, in township—— of range ——, subject to entry at ———, ———, under the timber-culture laws of the United States, do hereby apply to perfect my claim thereto by virtue of the seventh section of the act of June 14, 1878, entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the Western prairies,'" and for that purpose do solemnly ——— that my aforesaid entry was made in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I have not heretofore made any other entry under the timber-culture laws of the United States; and I do further ——— that the section of land specified in my aforesaid entry is composed exclusively of prairie lands or other lands devoid of timber, and that said entry was made for the cultivation of timber, and that I have planted on said land, cultivated, protected, and kept in a healthy growing condition for and during the period of eight (8) years last past ——— acres of (here describe the kinds) timber; that not less than ——— trees were planted on each acre, and that there are now at least ——— (*here state* the number) living and thrifty trees to and upon each acre, aggregating in total the number of ——— trees.

———— ————.

[Signature of claimant.]

Sworn to and subscribed before me this —— day of ———, 189—, at my office in ——— County, ———.

———— ————,

————— ————.

[4–386.]

[The testimony of two witnesses, in this form, taken separately, required in each case.]

TIMBER-CULTURE PROOF—TESTIMONY OF WITNESS.

[Act of June 14, 1878.]

———— ————, being called as a witness in support of the timber-culture entry of ————, No. ——, for the ———— of section ——, township ——, of range —— meridian, in the district of lands subject to entry at ————, testifies as follows:

Q. 1. What is your name, age, occupation, and residence?—A. ————.

Q. 2. Are you well acquainted with ————, the claimant, and if so, since what time have you known him?—A. ————.

Q. 3. If you have personal knowledge regarding claimant's timber-culture entry, give the date when said entry was made, describe the tract or tracts, and state the number of acres embraced therein.—A. ————.

Q. 4. How far do you reside from the land described, and have you had continuous personal knowledge of said land and the improvements thereon during the last eight (8) years?—A. ————.

Q. 5. Was the section embracing the entry of the claimant composed of prairie lands or other lands devoid of timber? Describe the land embraced in said section, whether undulating or otherwise; and if any natural timber was growing on the tract named at the date of entry, state the kind of trees so growing, and their number, situation, and size.—A. ————.

Q. 6. How many acres of the land embraced in claimant's entry were broken by him during the *first* year, how many during the *second* year, how many during the *third* year, respectively, after the date of entry? State how you know the area or number of acres broken.—A. ————.

Q. 7. How many acres of said tract were cultivated during the *second* year of said entry, and how many the *third* year?—A. ————.

Q. 8. How many acres of said tract were planted to trees, seeds, or cuttings during the *third* year of said entry? Give the kind or kinds of trees, seeds, or cuttings planted; and state how you know the area or number of acres so prepared and planted during said *third* year.—A. ————.

Q. 9. How many acres of said tract were planted to trees, seeds, or cuttings during the *fourth* year of said entry? Give the kind or kinds of trees, seeds, or cuttings planted; and state how you know the area or number of acres so prepared and planted during said *fourth* year.—A. ————.

Q. 10. State what was done by the claimant each year, subsequent to the fourth year, in the way of replanting and cultivating the tract planted to trees, seeds, or cuttings.—A. Fifth year, ————; sixth year, ————; seventh year, ————; eighth year, ————; ninth year, ————; tenth year, ————; eleventh year, ————; twelfth year, ————.

Q. 11. How many acres of timber on the tract described has the claimant planted, cultivated, protected, and endeavored to keep in a healthy growing condition for the period of eight (8) years, last preceding, and from what source is your knowledge upon this point obtained?—A. ————.

Q. 12. Describe the condition of the trees now growing on said tract, giving their average diameter and height, as nearly as you can, the kind or kinds of trees, the number of trees per acre, and state how you know the facts to which you testify.—A. ————.

Q. 13. Has the claimant, to your knowledge, ever made any other timber-culture entry?—A. ————.

Q. 14. Have you any interest, direct or indirect, in this claim?—A. ————.

(Sign plainly, with full Christian name.)

———— ————.

I hereby certify that the above-named ———— personally appeared before me; that the foregoing testimony was read to him before being subscribed, and was sworn to by him before me this —— day of ————, 189—, at my office in ———— County, ————.

———— ————,

———— ————.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following act of Congress, which is made by statute specifically applicable to all oaths, affirmations, and affidavits required or authorized under the timber-culture acts.

ACT OF MARCH 3, 1857 (11 STATUTES, p. 250).

"SECTION 5. *And be it further enacted*, That in all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them, of any local land office in the United States or in any Territory thereof, or where any oath, affirmation, or affidavit shall

be made or taken before any person authorized by the laws of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office or other proper officer of the Government of the United States, as under the laws of the United States in any wise relating to or affecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and if any person or persons shall, taking such oath, affirmation, or affidavit, knowingly, willfully, or corruptly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offense by the laws of the United States." (See also section 5392, U. S. Revised Statutes.)

[4-073 a.]

TIMBER-CULTURE ENTRY.

[Commutation under the first section of the act of March 3, 1891.]

FINAL AFFIDAVIT.

I, ——— ———, having, on —— day of ——, 18—, made a timber-culture entry, No. ——, of the —— of section ——, in township ——, of range ——, subject to entry at ——, under the timber-culture laws of the United States, do hereby apply to perfect my claim thereto by virtue of the first section of the act of March 3, 1891, entitled "An act to repeal timber-culture laws, and for other purposes," and to that end do solemnly —— that I am a bona fide resident of ——— ———, in the State or Territory of ———, and a[1] ——— citizen of the United States, or have declared my intention to become a citizen of the United States; that my aforesaid entry was made in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I have not heretofore made any other entry under the timber-culture laws of the United States; and I do further —— that the section of land specified in my aforesaid entry is composed exclusively of prairie lands or other lands devoid of timber, and that said entry was made for the cultivation of timber, and that I have broken and cultivated said land, and planted, cultivated, and protected timber thereon, to the extent and in the manner prescribed in said laws, as follows, viz:[2] ———, ———.

——— ———

[Signature of claimant.]

Sworn to and subscribed before me this ——— day of ———, 189—, at my office in ——— County, ———.

——— ———.

[4-148.]

Final receiver's receipt, No. ——.] [Application No. ——.

TIMBER CULTURE.

[Acts of March 3, 1873, March 13, 1874, and June 14, 1878.]

RECEIVER'S OFFICE, ———,
———, *18*—.

Received of ——— ——— the sum of ——— dollars —— cents, being the balance of payment required by law for the timber-culture entry of the ——— of section ——, in township ——, of range ——, —— meridian, containing ———$_{100}$ acres, under the acts of March 3, 1873, and March 13, 1874, and the act of June 14, 1878, amendatory thereof, entitled "An act to amend the act entitled 'An act to encourage the growth of timber on the Western prairies.'"

——— ———, *Receiver.*

---

[1] In case the party is of foreign birth a copy of his declaration of intention to become a citizen or full naturalization certificate officially certified must be filed in the case.

[2] Here insert a statement of the acts done, giving the particulars as to areas broken, cultivated, and planted in the first, second, third, and fourth years, respectively, from date of entry, kind and quantity of trees planted, etc.

[4-217.]

TIMBER CULTURE.

[Acts of March 3, 1873, March 13, 1874, and June 14, 1878.]

Final certificate, No. ——.] [Application No. ——.

LAND OFFICE AT ———,
———, *18*—.

It is hereby certified that, in pursuance of the provisions contained in the acts of Congress of March 3, 1873, and March 13, 1874, and the act amendatory thereof, of June 14, 1878, entitled "An act to amend the act entitled 'An act to encourage the growth of timber on the Western prairies,'" ——— ———, of ———, has made payment in full for ——— of section No. ——, in township No. ——, of range No. ——, —— meridian, containing ———$_{100}$ acres.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to a patent for the tract of land above described.

——— ———, *Register*.

[4-537.]

[This affidavit can be made only upon the personal knowledge of applicant derived from his own personal examination of the land.]

TIMBER AND STONE LANDS—SWORN STATEMENT.

[To be made in duplicate.]

LAND OFFICE AT ———,
(*Date*) ———, *18*—.

I, ——— ———, of (town or city) ———, county of ———, State (or Territory) of ———, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," as extended to all the public land States by act of August 4, 1892, for the purchase of the ———, of section ——, township ——, of range ——, in the district of lands subject to sale at ———, do solemnly ——— that I am a native (or naturalized) citizen (or have declared my intention to become a citizen[1]) of the United States, of the age of ———, and by occupation ———; that I have personally examined said land, and from my personal knowledge state that said land is unfit for cultivation, and valuable chiefly for its ———; that it is uninhabited; that it contains no mining or other improvements ———, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said acts; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself, and that my post-office address is [2] ———

——— ———.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ———, ———, ———, ———), and that I verily believe him to be the person he represents himself to be; and that this affidavit was subscribed and sworn to before me this —— day of ———, 18—.

——— ———,
Register (*or Receiver*).

NOTE.—Every person swearing falsely to the foregoing affidavit is guilty of perjury, and will be punished as provided by law for such offense. In addition thereto, the money that may be paid for the land is forfeited, and all conveyances of the land or of any right, title, or claim thereto, are absolutely null and void as against the United States.

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[1] In case the party has been naturalized or has declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

[2] If the residence is in a city, the street and number must be given.

[4-371.]

[The testimony of two witnesses, in this form, taken separately, required in each case.]

TESTIMONY OF WITNESS UNDER ACTS OF JUNE 3, 1878, AND AUGUST 4, 1892.

——— ———, being called as a witness in support of the application of ——— ——— to purchase the —— of section ——, township ——, of range ——, testifies as follows:

Q. 1. What is your age, post-office address, and where do you reside?—A. ———.

Q. 2. Are you acquainted with the land above described by personal inspection of each of its smallest legal subdivisions?—A. ———.

Q. 3. When and in what manner was such inspection made?—A. ———.

Q. 4. Is it occupied, or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?—A. ———.

Q. 5. Is it fit for cultivation?—A. ———.

Q. 6. What causes render it unfit for cultivation?—A. ———.

Q. 7. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.—A. ———.

Q. 8. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?—A. ———.

Q. 9. From what facts do you conclude that the land is chiefly valuable for timber or stone?—A. ———.

Q. 10. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?—A. ———.

Q. 11. Are you in any way interested in this application or in the lands above described or the timber or stone, salines, mines, or improvements of any description whatever thereon?—A. ———.

——— ———.

I hereby certify that each question and answer in the foregoing testimony was read to the witness before —— signed —— name thereto, and that the same was subscribed and sworn to before me this —— day of ———, 189—.

——— ———.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CHAPTER 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully, and contrary to such oath, states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See sec. 1750.)

[4-274.]

[This affidavit can be made only upon applicant's personal knowledge, and from his own personal examination of the land, and must be subscribed and sworn to by the register and receiver of the land district in which the land is situated, or before the judge or clerk of a court of record of the county in which the lands are situated, or any commissioner of the United States circuit court having jurisdiction over the county in which the land is situated.]

[DESERT-LAND ACT OF MARCH 3, 1877, AS AMENDED BY ACT OF MARCH 3, 1891.]

DECLARATION OF APPLICANT.

No. ——.

UNITED STATES LAND OFFICE, ———,
——— ———, *189*—.

I, ——— ———, of (town or city) ———, County of ———, and State (or Territory) of ———, being duly sworn, on oath depose and declare: That I am a native-born (or naturalized) citizen * of the United States, of the age of —— years, and a resident of ———, and by occupation a ———; that my post-office address is ———; that

I intend to reclaim a tract of desert land not exceeding one-half section, or 320 acres, by conducting water upon the same within four years from date of entry, in manner as required by the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories," as amended by act of March 3, 1891. The land which I intend to reclaim is desert land and is situated in ——— county, in the ——— land district, and is described as follows, to wit: The ——— of section No. ——, township No. ——, range No. ——, containing —— acres. I further depose and declare that I have made no other declaration for desert lands nor any other entry under the provisions of said act; that since August 30, 1890, I have not entered under the land laws of the United States, or filed upon, nor do I hold by assignment under the act of March 3, 1891, a quantity of land which, with the tracts now applied for, would make more than 320 acres; that I have made an actual personal examination of each and every legal subdivision of the land above described; that said land borders on (state what stream or body of water and describe the same) ———, and that there is through or upon said land (name and describe all water courses, springs, or other bodies of water) ———; that said land is not naturally irrigated or watered, nor overflowed at any season of the year by the foregoing or any natural stream, spring, or other body of water; that I expect to obtain my water supply to irrigate said land from ———; that the character of the soil is ———; that said land will not, without artificial irrigation, produce an agricultural crop of any kind in amount reasonably remunerative, and that it will not, when unfed by grazing animals, produce native grasses sufficient in quantity to make an ordinary crop of hay in usual seasons; that there are no trees growing on said land, but that the same is devoid of timber; said land does not contain moisture sufficient to produce a natural growth of trees; that the same is essentially dry and arid land, wholly unfit for cultivation without artificial irrigation; that said land can not be successfully cultivated without being reclaimed by conducting water thereon; that said land has hitherto been unappropriated, unoccupied, and unsettled because it has been impossible to cultivate it successfully on account of its dry and arid condition; that it is a fact well known, patent, and notorious, that the same will not, in its natural condition, produce any crop; that no portion of said land has ever been reclaimed by conducting water thereon, and that there are no lands in the vicinity of this tract that are occupied by settlers and cultivated without artificial irrigation. *And I further declare* that there is not, to my knowledge, within the limits of said land any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not, within the limits of said land, to my knowledge, any placer, cement, gravel or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that my declaration therefor is not made for the purpose of fraudulently obtaining title to mineral land, timber land, or agricultural land, but for the purpose of faithfully reclaiming the land above described by conducting water thereon within three years from date of entry.

My post-office address is ———.

——— ———.

NOTES.

1. If residence is in city, street and number must be given.

*2. In case the party has been naturalized, a certified copy of his certificate of naturalization must be furnished.

3. When the entry is made on unsurveyed land a correct diagram of the lands applied for must be furnished, also a map which shall exhibit a plan showing the mode of contemplated irrigation as required by section 4 of the said act.

LAND OFFICE AT ———,
——— ———, *189—*.

I hereby certify that the foregoing affidavit was read to the affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in ———, on this —— day of ———, 189—.

———,
——— ———.

NOTE.—Any person swearing falsely to the foregoing affidavit or to any of the statements therein, is guilty of *perjury*, and will be punished as provided by law for that offense.

The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES. CHAPTER 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See sec. 1750.)

[4–074.]

[Desert-land act of March 3, 1877.]

AFFIDAVIT OF WITNESS.

No. ——.] LAND OFFICE AT ———,
———, *18—*.

I, ——— ———, of (town or city) ———, county of ———, and State (or Territory) of ———, being duly sworn, declare upon oath: That I am a resident of ———, of the age of ———, and by occupation a ———; that my post-office address is ———; that I am well acquainted with the character of each and every legal subdivision of the following described land embraced in the declaration of ——— ———, viz: the ——— of section No. ——, township No. ——, range No. ——, containing ——— acres; that I became acquainted with said land by a personal examination of each and every legal subdivision thereof; that I have been acquainted with it for —— years last past; that I have frequently passed over it; that my knowledge of said land is such as to enable me to testify understandingly concerning it; that the same is desert land within the meaning of the second section of the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories;" that said land borders on (state what stream or body of water and describe the same), and that there is through or upon said land (name and describe all water courses, springs, or other bodies of water); that said land is not naturally irrigated or watered, or overflowed at any season of the year by the foregoing or any natural stream, spring, or other body of water; that water to irrigate said land can be obtained from ———, a distance of ——— from said land; that the character of the soil is ———; that it produces a natural growth of ———; that said land will not, without artificial irrigation, produce an agricultural crop of any kind in amount reasonably remunerative, and that it will not, when unfed by grazing animals, produce native grasses sufficient in quantity to make an ordinary crop of hay in usual seasons; that there are no trees growing on said land, but that the same is devoid of timber; said land does not contain moisture sufficient to produce a natural growth of trees; that the same is essentially dry and arid land, wholly unfit for cultivation without artificial irrigation; that said land can not be successfully cultivated without being reclaimed by conducting water thereon; that said land has hitherto been unappropriated, unoccupied, and unsettled because it has been impossible to cultivate it successfully on account of its dry and arid condition; that it is a fact well known, patent, and notorious that the same will not, in its natural condition, produce any crop; that no portion of said land has ever been reclaimed by conducting water thereon, and that there are no lands in the vicinity of this tract that are or have been cultivated without artificial irrigation. *And I further declare* that there is not, to my knowledge, within the limits of said land any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not, within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; and that said land is essentially nonmineral land. *And I further declare* that I make this affidavit at the request of ——— ———, and that I am not interested in any way or manner, directly or indirectly, present or prospective, in the application or declaration in support of which this affidavit is made, nor in the land itself, nor in any title thereto which may be acquired by said applicant or any other person.

——— ———.

LAND OFFICE AT ———,
———, *18—*.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe

him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in ———, on this —— day of ———, 18—.

——— ———, *Register.*
——— ———, *Receiver.*

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which the law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

[4–199.]

DESERT LANDS.—ACT OF MARCH 3, 1877.

No. ——.] UNITED STATES LAND OFFICE, ———,
———, *18*—.

It is hereby certified that under the provisions of the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories," ——— ———, of ———, has this day filed in this office his declaration of intention to reclaim the following-described tract of land, viz: ———; that he has filed evidence to show that the said tract of land is desert land as defined in the second section of said act, and that he has paid to the receiver the sum of ——— dollars, being at the rate of ——— cents per acre for the land above described.

——— ———, *Register.*
——— ———, *Receiver.*

$——.

Within three years from the date of this certificate final proof and payment are, by law, required to be made.

Notice of intention to make such proof must be filed by the claimant with the register and published in a newspaper designated by him for a period of thirty days or in five consecutive issues of said paper, which notice must also contain the names of the witnesses by whom the necessary facts will be established.

[4—372 a.]

[Final proof under the desert-land act of March 3, 1877, and March 3, 1891.]

DEPOSITION OF APPLICANT.

Q. 1. State your name, age, occupation, residence, and post-office address.—A. ———.

Q. 2. Are you a *native-born* citizen of the United States; and if so, in what State or Territory were you born, and of what State or Territory are you now a resident citizen?[1]—A. ———.

Q. 3. Give the number and date of the desert-land entry heretofore made by you, and describe the land embraced therein.—A. ———.

Q. 4. State its situation, the character of the soil, its proximity to water, and what natural streams, springs, or bodies of water are upon, or pass through, or adjoin it. And if any, do the streams or springs afford natural irrigation?—A. ———.

Q. 5. Do you own and control, or have you a clear right to the use of water sufficient to irrigate the whole of the land and for keeping the same permanently irrigated?—A. ———.

Q. 6. State the source and volume of the water supply, how acquired by you, and how maintained, and at what cost. (Record evidence of the claimant's right to the

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[1] In case the party is of foreign birth, a certified transcript from the court records of his declaration of intention to become a citizen, or naturalization, or a copy thereof, certified by the officer taking this proof, must be filed with the case.

use of the water, or other satisfactory evidence, in accordance with local laws, must be furnished.)—A. ———.

Q. 7. State from personal knowledge whether such water has been conducted during any one season upon all the land embraced in your entry, and if the same has been irrigated and reclaimed from its desert condition to such an extent that it will now produce an agricultural crop or a paying crop of hay.—A. ———.

Q. 8. State also the number, dimensions, and carrying capacity of the main ditch or ditches, and also of all the ditches on each legal subdivision of the land which are used in irrigating the same; also the cost of the dams and ditches and the amount expended in the aggregate, in compliance with the legal requirements, whether it equals $3 per acre of the entire area or not?—A. ———.

Q. 9. State whether you have seen water distributed through and by means of said ditches over all the land in each legal subdivision of your entry with a view to the proper reclamation thereof; and if so, state the dates when each distribution was made and the quantity of water per acre used, and the time occupied in making the same, in each and every year.—A. ———.

Q. 10. If there are any high points or uneven surfaces which are practically not susceptible of irrigation, state definitely the nature, situation, extent, and area of the same.—A. ———.

Q. 11. Has an agricultural crop of any kind, including a marked increase in the growth of grass, been raised on the land as the result of such irrigation? If so, state the kind of crop and the quantity per acre, and describe the portion of the entry on which the same was raised, showing the aggregate area in actual cultivation, whether it equals one-eighth of the entire area or not.—A. ———.

Q. 12. If any lands adjacent to or in the vicinity of the land embraced in this entry are settled upon or occupied, and paying crops of any kind are or have been raised thereon without artificial irrigation, describe the same, and state year or years of cultivation, the kind of crop, and the quantity raised per acre. If so, state whether the lands producing the same were naturally irrigated.—A. ———.

Q. 13. Has any coal or other minerals been discovered on said land, or is any coal or mineral known to be contained therein?—A. ———

Q. 14. Are there any indications of coal, salines, or minerals of any kind on this land? If so, describe what they are.—A. ———.

Q. 15. Have you the sole and entire interest in said entry and in the tract covered thereby, and in the right to the water sufficient to continuously irrigate the same?—A. ———.

Q. 16. Has any other person, individual, company, or corporation any interest whatever in said entry, tract, or water appropriation? If so, give the name, residence, and occupation of each such person, the name, business, and locality of any such corporation or company, and the nature, amount, and extent of such interest.—A. ———.

Q. 17. Have you made any other desert-land entry, or have you any interest, direct or indirect, in any other entry under the desert-land act?—A. ———.

Q. 18. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral), made by you since August 30, 1890.—A. ———.

(Sign here with full christian name.) ——— ———.

LAND OFFICE AT ———,
———, *189—*.

I hereby certify that the foregoing testimony was read to the claimant before being subscribed; that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me at my office in ——, on the —— day of ——, 189—.

———, *Register.*
———, *Receiver.*

NOTE.—A correct diagram, showing the location of all ditches and improvements, must be furnished by claimant.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CHAPTER 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See sec. 1750.)

[4-074 a.]

[Affidavit required of parties appearing as assignees of original entrymen.]

DESERT-LAND ENTRY.

[Acts of March 3, 1877, and March 3, 1891.]

I, ——— ———, of ——, claiming to be assignee of ——— ———, who made entry No. —— of the —— of section ——, in township —— of range ——, on the —— day of ——, 18—, at the district land office at ——, do solemnly swear that I am a bona fide resident citizen of the State or Territory of ——— and a ——— citizen of the United States, or have declared my intention to become a citizen of the United States; that the said ———, who made said entry, did on the —— day of ——, 18—, transfer his right thereunder to me, by virtue of deed or instrument of writing of which a certified copy is herewith attached; and further, that I do not hold by assignment or otherwise more than three hundred and twenty acres of land entered under said acts, the only lands so held by me being described as follows, and being embraced in entries indicated as follows, viz:[1] ——— ———; that since August 30, 1890, I have not entered under the land laws of the United States, or filed upon, nor has there been assigned to me a quantity of land, agricultural in character, and not mineral, which, with the tract now assigned would make more than three hundred and twenty acres, except[1] ———.

My post-office address is ——— ———.

(Sign plainly with full christian name.) ——— ———.

Sworn to and subscribed before me this —— day of ——, 189—, at my office in ——— County, ———.

——— ———.

[4-074 b.]

[Yearly proof required.]

DESERT-LAND ENTRY.

[Acts of March 3, 1877, and March 3, 1891.]

CLAIMANT'S TESTIMONY.

I, ——— ———, of ——, having on the —— day of ——, 18—, made entry No. —— of the —— of section —— in township ——, of range ——, containing —— acres, at the district land office at ——, under the desert-land laws of the United States, do solemnly swear that during the —— year after making said entry, that is, after the —— day of ——, 18—, and before the —— day of ——, 18—, I expended in the necessary irrigation, reclamation, and cultivation of said land the sum of ——, being not less than one dollar per acre of the area thereof, and that said sum was expended in manner following, viz:[2] ———, ———.

(Sign plainly with full christian name.) ——— ———.

Sworn to and subscribed before me this —— day of ——, 189—, at my office in —— County, ———.

——— ———.

At the expiration of the third year the proof required, as above, must be accompanied with a map or plan showing the character and extent of the improvements made on the land, verified under oath of the entryman.

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[1] Here insert statement of land and of entries in form following, viz: "——— of section ——, township ——, of range ——, entered by ——— ———, on the —— day of ——, 18—, entry No. ——, —— series."

[2] Here insert in detail the extent and character of the improvements made on the land.

[4–074 c.]

[Depositions of two witnesses in this form required to be taken separately.]

DESERT-LAND ENTRY.

[Acts of March 3, 1877, and March 3, 1891.]

I, ——— ———, of ——, being well acquainted with the tract of land embraced in the entry, No. ——, of the —— of section ——, in township ——, of range ——, containing —— acres, made by ——— ———, of ——, on the —— day of ——, 18—, at the district land office at ——, under the desert-land laws, being duly sworn, declare upon oath that there was expended by him during the —— year after the date of said entry, that is, after the —— day of ——, 18—, and before the —— day of ——, 18—, the sum of ——, being not less than one dollar per acre of the area thereof, and that the said sum was expended in the following manner, viz:[1] ——— ———.

(Sign plainly with full christian name.) ——— ———.

Sworn to and subscribed before me this ——— day of ———, 189—, at my office in ——— County, ———.

——— ———.

[4–373 a.]

[The depositions of two witnesses, in this form, taken separately, required in each case.]

FINAL PROOF UNDER THE DESERT-LAND ACTS OF MARCH 3, 1877, AND MARCH 3, 1891.

DEPOSITION OF WITNESS.

1. Question. State your name, age, residence, occupation, and post-office address.—Answer. ———.

2. Q. Are you acquainted with ———, who made desert-land entry No. —— on the —— day of ———, A. D. 18—, upon the ———, how long have you known him, and where does he now reside?—A. ———.

3. Q. Have you personal knowledge of this land? State its situation, the character of the soil, its proximity to water, and what natural streams, springs, or bodies of water are upon, or pass through, or adjoin it; and if any, is any part of the claim naturally irrigated by such stream or spring?—A. ———.

4. Q. Does the entryman own and control or have a clear right to water sufficient to properly and permanently irrigate all the land embraced in this entry?—A. ———.

5. Q. State the source and volume of the water supply, how acquired, and how maintained?—A. ———.

6. Q. Has water been conducted upon the land embraced in said entry so as to irrigate and reclaim the same from its former condition to such extent that it will produce an agricultural crop? If so, give the numbers, dimensions, and capacity of the main ditch or ditches, and also of all the ditches on each legal subdivision of the land which are used in irrigating the same, and the amount expended in complying with the legal requirements, whether it equals $3 per acre of the entire area or not?—A. ———.

7. Q. Have you seen water distributed through and by means of said ditches over all the land in each legal subdivision of said entry? State the dates when such distribution took place, the duration thereof, and the quantity of water per acre used.—A. ———.

8. Q. If there are any high points or uneven surfaces which are practically not susceptible of irrigation, state definitely the nature, situation, and area thereof.—A. ———.

9. Q. Has an agricultural crop of any kind, including an increased growth of grass, been raised on the land as the result of such irrigation? If so, state the year when raised, the kind of crop, the quantity per acre, and the portion of the entry on which the same was raised, showing the aggregate area in actual cultivation, whether it equal one-eighth of the entire area or not.—A. ———.

10. Q. If any lands adjacent to or in the vicinity of the land embraced in this entry are settled upon or occupied, and paying crops of any kind are or have been raised thereon without artificial irrigation, describe the same, and state year or

---

[1] Here state the extent and character of the improvements made on the land.

years of cultivation, kind of crop and quantity raised per acre, and if paying crops have been raised, were the lands naturally irrigated?—A. ———.

11. Q. Has any coal or other minerals been discovered on said land, or is any coal or mineral known to be contained therein? Are there any indications of coal, salines, or minerals of any kind on this land? If so, describe what they are.—A. ———.

12. Q. Have you any interest, direct or indirect, in this entry or in the land covered thereby, or in the water supply used in its irrigation?—A. ———.

(Sign here with full Christian name.) ——— ———.

LAND OFFICE AT ———,
———, *189—*.

I hereby certify that the above testimony was taken and subscribed before me this day, and that the same was read to the witness in my presence before he signed his name thereto; that I believe the witness to be the person he represents himself to be, and that the land described is properly subject to entry under the desert-land act, and that said testimony was subscribed and sworn to before me at my office in ——— County, ———.

———,
———.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

[4–143.]

DESERT-LAND ACT OF MARCH 3, 1877.

Receiver's final receipt, No. ——.] [Declaration, No. ——.

LAND OFFICE AT ———,
———, *189—*.

Received from ——— ———, of ——— County, State or Territory of ———, the sum of ——— dollars and ——— cents, being final payment of one dollar per acre for the ———, containing ——— acres, at one dollar and twenty-five cents per acre, the sum of twenty-five cents per acre having been heretofore paid, as per original receipt No. ——.

——— ———, *Receiver.*

$——.

[4–200.]

DESERT-LAND ACT OF MARCH 3, 1877.

Register's final certificate, No. -——.] [Declaration, No. ——.

LAND OFFICE AT ———,
———, *189—*.

It is hereby certified that, in pursuance of the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories," ——— ———, of ——— County, State or Territory of ———, has purchased of the register of this office, and made payment in full for the land described as follows, to wit: ——— containing ——— acres, at the rate of one dollar and twenty-five cents per acre, amounting to ——— dollars:

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office, the said ——— ——— shall be entitled to receive a patent for the tract of land above described.

——— ———, *Register.*

[NOTE.—See original declaration and receipt No. ——.]

[4-062.]

NONMINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and can not be made on information and belief.

The nonmineral affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

UNITED STATES LAND OFFICE, ———,
———, *189—*.

——— ———, being duly sworn according to law, deposes and says that he is the identical ——— ——— who is an applicant for Government title to the ———; that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is ———.

——— ———.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or has been satisfactorily identified before me by ——— ———), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in ———, within the ——— land district, on this —— day of ———, 189—.

——— ———,
——— ———.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

NOTICE FOR PUBLICATION (ISOLATED TRACT).

[See page 5.]

PUBLIC LAND SALE.

Notice is hereby given that in pursuance of instructions from the Commissioner of the General Land Office, under authority vested in him by section 2455, U. S. Rev. Stat., as amended by the act of Congress approved February 26, 1895, we will proceed to offer at public sale on the —— day of ———, next, at this office, the following tract of land, to wit: ——— ———.

Any and all persons claiming adversely the above-described lands are advised to file their claims in this office on or before the day above designated for the commencement of said sale, otherwise their rights will be forfeited.

——— ———, *Register.*
——— ———, *Receiver.*

(Date.) ———.

FORMS FOR ASSIGNMENT OF SOLDIERS' CERTIFICATES RECERTIFIED TO OWNERS AND PURCHASERS UNDER ACT OF AUGUST 18, 1894.

[See page 31.]

[Form No. 1.]

ASSIGNMENT BY FIRST OWNER UNDER RECERTIFICATION.

For value received, I, ——— ———, of ———, in the ———, and ———, assignee of the original beneficiary to whom the foregoing and attached certificate was, upon the —— day of ———, 18—, issued by the Commissioner of the General Land Office under section 2306 of the Revised Statutes of the United States, and the same ——— ———, to whom, as a bona fide purchaser and owner thereof such original certificate was, upon the —— day of ———, 189—, recertified by the Commissioner of the General Land Office under the act of Congress of August 18, 1894, and official circular of the General Land Office, dated October 16, 1894, do hereby sell and assign unto ——— ———, of ———, in the ———, and ———, and to his heirs and assigns forever, the said certificate and the right of entry and location thereby secured, and authorize him to locate the said certificate and to enter lands therewith and to receive a patent for any land so located or entered.

——— ———. [L. S.]

Attest:

——— ———.

——— ———.

[Two witnesses.]

[Form No. 2.]

ACKNOWLEDGMENT OF FORM NO. 1.

——— ——— } ss.
——— ——— }

On the —— day of ———, 189–, before me personally came ——— ———, to me well known, and acknowledged the foregoing assignment to be his act and deed; and I certify that the said ——— ——— is the identical person to whom the within certificate was recertified upon the —— day of ———, 189–, and who executed the foregoing assignment thereof. And I further certify that the said certificate, at the time of making the foregoing assignment, was attached to said assignment and was presented by and was in the possession of him, the said ——— ———.

——— ———,

——— ———.

[Form No. 3.]

ASSIGNMENT BY ASSIGNEE OF FIRST OWNER.

For value received, I, ——— ———, to whom the foregoing and attached certificate and right of entry and location thereby secured were assigned, do hereby sell and assign unto ——— ———, of ———, in the ——— and ———, and to his heirs and assigns forever, the said certificate and right of entry and location, and authorize him to locate the said certificate and to enter lands therewith and to receive a patent for any lands so located or entered.

——— ———. [L. S.]

Attest:

——— ———.

——— ———.

[Form No. 4.]

ACKNOWLEDGMENT OF FORM NO. 3.

——— ——— } ss.
——— ——— }

On this ——— day of ———, 189–, before me personally came ——— ———, to me well known, and acknowledged the foregoing assignment to be his act and deed; and I certify that the said ——— ——— is the identical person to whom the foregoing and attached certificate and right of entry and location thereby secured were, on the

—— day of ———, 189–, heretofore assigned. And I further certify that the said certificate, at the time of making the foregoing assignment, was attached to said assignment, and was presented by and in the possession of him, the said ——— ———.

———— ————,
———— ————.

Subsequent assignments may follow Form No. 3 above.

FINAL CERTIFICATE FOR RESERVATION IN OKLAHOMA TOWN SITES (COMMUTED HOMESTEAD).

[See page 57.]

No. ——. LAND OFFICE AT ———, ———,
(Date) ——— —, 18—.

It is hereby certified that, pursuant to the provisions of section 22 of the act of May 2, 1890 (26 Stat., 81), and the regulations thereunder ———, of the town of ———, in ——— County, Oklahoma, has made application for patent for ———, in the town site of ———, Oklahoma, reserved for public purposes in accordance with the approved plats of said town site, said application being accompanied by satisfactory proof of the organization of said municipality, and of his authority to make application for patent for said reservations.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said ——— shall be entitled to a patent for the tract of land above described in trust for the municipality of ———, Oklahoma, said land to be maintained for the public purposes, as provided in the act herein referred to.

———— ————, *Register.*

[4–072.]

AFFIDAVIT TO BE FILED BEFORE CONTEST.

U. S. LAND OFFICE, ——— 189—.

Personally appeared before me, ———, of the land office, ——— of ——— County, State of ———, who upon his oath says: That he is well acquainted with the tract of land embraced in the homestead entry of ———, No. ——, made ———, 18—, ——— and knows the present condition of the same; also that the said ——— and this the said contestant is ready to prove at such time and place as may be named by the register and receiver for a hearing in said case; and he therefore asks to be allowed to prove said allegations, and that said homestead entry, No. ——, may be declared canceled and forfeited to the United States—he, the said contestant, paying the expenses of such hearing.

———— ————.

Sworn to and subscribed this day and year above written before
———— ————, *Register.*
———— ————, *Receiver.*

(Endorse.)

Also appeared at the same time and place ——— and ———, who, being duly sworn, depose and say: That they are acquainted with the tract described in the within affidavit of ———, and know from personal observation that the statements therein made are true.

———— ————.
———— ————.

Sworn to and subscribed before me this —— day of ———, 189—.

———— ————.

[4–345.]

CONTEST NOTICE.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,
———— ————, *18*—.

A sufficient contest affidavit having been filed in this office by ——— ———, contestant, against ——— entry No. ——, made ———, 18—, for ———, section ——, township ——, range ——, by ——— ———, contestee, in which it is alleged that: ——— said parties are hereby notified to appear, respond, and offer evidence touch-

ing said allegation at 10 o'clock a. m. on ———, 18—, before ——— ——— (and that final hearing will be held at —— o'clock —— m. on ———, 18—, before)[1] the register and receiver at the United States land office in ———.

The said contestant having, in a proper affidavit, filed ———, 18—, set forth facts which show that, after due diligence, personal service of this notice can not be made, it is hereby ordered and directed that such notice be given by due and proper publication.[2]

——— ———, *Register.*
——— ———, *Receiver.*

PROOF OF PERSONAL SERVICE.

———, County of ———, *ss:*

——— ———, being first duly sworn, on his oath says that he served the within notice by delivering a true copy thereof to each of the within-named contestees at the following-named times and places, to wit: ———.

(Sign.) ——— ———.

Subscribed and sworn to before me this —— day of ———, 18—.

——— ———,
——— ———.

[Under act of May 14, 1898—Alaska, page 113.]

FORMS FOR DUE PROOFS AND VERIFICATION OF MAPS OF RIGHT OF WAY FOR RAILROADS, TRAMWAYS, WAGON ROADS, ETC.

Form 1.

I, ——— ———, secretary (or president) of the ——— company, do hereby certify that the organization of said company has been completed; that the company is fully authorized to proceed with construction according to the existing laws of the State (or Territory) of ———; and that the copy of the articles of association (or incorporation) of the company filed in the Department of the Interior is a true and correct copy of the same.

In witness whereof I have hereunto set my name and the corporate seal of the company.

[SEAL OF COMPANY.] ——— ———,
——— of the ——— Company.

Form 2.

STATE OF ———
County of ———, *ss:*

——— ———, being duly sworn, says that he is the president of the ——— company, and that the following is a true list of the officers of the said company, with the full name and official designation of each, to wit: (Here insert the full name and official designation of each officer.)

[SEAL OF COMPANY.] ——— ———,
President of Company.

Sworn and subscribed to before me this ——— day of ———, 189—.

[SEAL.] ——— ———,
Notary Public.

Form 3.

STATE OF ———,
County of ———, *ss:*

——— ———, being duly sworn, says he is the chief engineer of (or is the person employed to make the survey by) the ——— company; that the survey of the said

---

[1] If the testimony is to be taken before the register and receiver, and not under rule 35, the words in ( ) parenthesis should be erased.

[2] If personal service can be obtained, the register should erase the last paragraph before signing this notice.

company's line of (railroad, tramway, or wagon road) described as follows: (here describe the line of route as required by paragraph 14), a length of ——— miles, was made by him (or under his direction) as chief engineer of (or as surveyor employed by) the company and under its authority, commencing on the —— day of ———, 189–, and ending on the —— day of ———, 189–; that the survey of said land is accurately represented on this map and by the accompanying field notes; and that this proposed right of way does not lie within 4 rods of the shore of any navigable waters, except as shown on this map. (In the case of a tramway or wagon road, add the following: The said line of road does not lie upon nor cross any road or trail in common use for public travel except as shown on this map.)

——— ———,

——— ———.

Sworn and subscribed to before me this —— day of ———, 189—.

[SEAL.]

——— ———,

Notary Public.

Form 4.

I, ——— ———, do hereby certify that I am president of the ——— company; that ——— ———, who subscribed the accompanying affidavit, is the chief engineer of (or was employed to make the survey by) the said company; that the survey of the said (railroad, tramway, or wagon road), as accurately represented on this map and by the accompanying field notes, was made under authority of the company; that the company is duly authorized by its articles of incorporation to construct the said (railroad, tramway, or wagon road) upon the location shown upon this map; that the said survey as represented on this map and by said field notes was adopted by resolution of its board of directors on the —— day of ———, 189—, as the definite location of the said (railroad, tramway, or wagon road) described as follows: (describe as in Form 3); that this proposed right of way does not lie within 4 rods of the shore of any navigable waters, except as shown on this map; and that this map has been prepared to be filed in order to obtain the benefits of sections 2 to 9, inclusive, of the act of Congress approved May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes."[1] I further certify that the said (railroad or tramway) is to be used as a common carrier of freight and passengers.

——— ———,

President of the ——— Company.

Attest:

[SEAL OF COMPANY.]

——— ———,

Secretary.

Form 5.

STATE OF ———,

County of ———, *ss:*

——— ———, being duly sworn, says that he is the chief engineer of (or was employed to construct the railroad, tramway, or wagon road of) the ——— company; that said (railroad, tramway, or wagon road) has been constructed under his supervision, as follows: (describe as in paragraph 14) a total length of ——— miles; that construction was commenced on the —— day of ———, 189—, and completed on the —— day of ———, 189—; that the constructed (railroad, tramway, or wagon road) conforms to the map and field notes which received the approval of the Secretary of the Interior on the —— day of ———, 189—.

——— ———.

——— ———.

Sworn and subscribed to before me this —— day of ———, 189—.

[SEAL.]

——— ———, *Notary Public.*

Form 6.

I, ——— ———, do hereby certify that I am the president of the ——— company; that the (railroad, tramway, or wagon road) described as follows: (describe as in Form 5) was actually constructed as set forth in the accompanying affidavit of ——— ———, chief engineer (or the person employed by the company in the premises); that the location of the constructed (railroad, tramway, or wagon road) con-

---

[1] The last sentence to be omitted from applications for wagon-road right of way.

forms to the map and field notes approved by the Secretary of the Interior on the —— day of ———, 189—; and that the company has in all things complied with the requirements of sections 2 to 9, inclusive, of the act of Congress approved May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes."

———— ————,
President of the ——— Company.

Attest:
[SEAL OF COMPANY.]

———— ————,
Secretary.

Form 7.

STATE OF ———,
County of ——— ss:

———— ————, being duly sworn, says he is the chief engineer of (or is the person employed to make the survey by) the ——— company; that the survey of the tract described as follows: (here describe as required by paragraph 14) an area of ——— acres, and no more, was made by him (or under his direction) as chief engineer of the company (or as surveyor employed by the company), and under its authority, commencing on the —— day of ———, 189—, and ending on the —— day of ———, 189—; that the survey of the said tract is accurately represented on this plat and by the accompanying field notes; [1](that the company has occupied no other grounds for similar purposes upon public lands within the section of [5 or 10] miles, from the —— mile to the —— mile, for which this selection is made); that in his belief, the said grounds are actually and to their entire extent required by the company for the necessary uses contemplated by the act of Congress approved May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes;" that the said tract does not lie within 4 rods of the shore of any navigable waters except as shown on this map, and that to the best of my knowledge and belief there is no settlement or other claim along the shore of any navigable waters upon land within 80 rods of any point of this tract except as shown on this map.

———— ————,
———— ————.

Subscribed and sworn to before me this —— day of ———, 189—.
[SEAL.]

———— ————,
Notary Public.

Form 8.

I, ———— ————, do hereby certify that I am president of the ——— company; that ———— ————, who subscribed the accompanying affidavit, is the chief engineer of (or was employed to make the survey by) the said company; that the survey of the tract described as follows: (here describe as in Form 7) an area of ——— acres, and no more, was made by him as chief engineer of (or as surveyor employed to make the survey by) the said company; that the said survey, as accurately represented on this map and by the accompanying field notes, was made under authority of the company; that the said survey, as represented on this map and by said field notes, was adopted by resolution of its board on the —— day of ———, 189—, as the definite location of said tract for (station, terminal, or junction grounds); [1](that the company has occupied no other grounds for similar purposes upon public lands within the section of [5 or 10] miles, from the —— mile to the —— mile, for which this selection is made); that, in his belief, the said grounds are actually and to their entire extent required by the company for the necessary uses contemplated by the act of Congress approved May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes;" that the said tract does not lie within 4 rods of the shore of any navigable waters except as shown on this map, and that, to the best of my knowledge and belief, there is no settlement or other claim along the shore of any navigable waters upon land within 80 rods of any point of this tract except as shown on this map.

———— ————,
President of the ——— Company.

ATTEST:
[SEAL OF COMPANY.]

———— ————,
Secretary.

[1] This clause is to be omitted in applications for terminal or junction grounds.

INDEX.

[**Full-face** numerals indicate pages on which copies of laws, or parts of laws, may be found.]

A.

Page.

Abandoned military reservations, disposal of 80–82, 188, **235, 238**

Abandonment:

Contest for, against homesteader granted leave of absence 92

Of homestead claim for more than six months after entry (sec. 2297, Rev. Stat.) 12, 93, **155**

Of claim after removal of timber, construed 35

Absence (leaves of) 16–18, **173, 187, 236–237**, 264

Contest for abandonment where homesteader has been granted leave of absence 92

Absentee Shawnee lands, Oklahoma 48, 51–52, **229, 239**

Acquisition of agricultural public land, restriction on (act of August 30, 1890) 5, 41, **88–89, 226**

Acts of Congress:

March 3, 1857, sec. 5—Perjury in land cases, and punishment for **162**, 169

June 2, 1858—Private land scrip 8

June 22, 1874—Relief of settlers on railroad lands 70–71

January 12, 1877—Sale of saline lands 4, 82, **163**

February 27, 1877—Board of equitable adjudication 135

March 3, 1877—

Entry of public lands in States having no land offices 95

Desert-land entries 39–44, **164**

Homestead proof; amending section 2291, Rev. Stat. .. 36, 85, 140–141, **165**

June 3, 1878—

Cutting of timber on mineral lands in certain States and Territories 110, 112–113

Timber and stone lands 45–47, **165–167, 231**, 255

Service of contest notices by publication **93**

June 14, 1878—

Conversion of preemption filing into homestead entry 16, **167**

Timber-culture entry 36–39, **167–169**, 221

January 28, 1879—Assignment and location of private land scrip 8, **169**

March 3, 1879—

Amending section 2403, R. S., relative to deposits for surveys ... 102, **170**

Additional rights of homestead settlers within railroad limits 31–34, **171**, 183

Publication of notice of intention to make proof **171**, 188

July 1, 1879—

Additional rights of homestead settlers within railroad limits in Missouri and Arkansas 31–34, **172**, 183

Relief of settlers on lands subject to grasshopper incursions 16–18, **173–174**

May 14, 1880—Relinquishments, preference right of contestants, and homestead settlement 13, 14, 32, 39, 44, 91, **174**, 228

May 28, 1880—Osage Indian trust and diminished-reserve lands 47–48, **174–176**

June 4, 1880—Leaves of absence to settlers in Kansas and Nebraska because of crop failures in 1879 or 1880 ..... **176–177**

June 8, 1880—Perfection of claims, where settlers become insane .. 15, **177**, 264

June 9, 1880—Officer before whom preemption and commutation homestead affidavits may be made **178**

June 15, 1880—Condoning timber trespass, attempted sale of homesteads, etc 4, 6, 26–27, **178–179**

June 16, 1880—Repayment of certain fees, purchase money and commissions paid on void entries 19, 105, 106, **179–180**

Acts of Congress—Continued. Page.
January 13, 1881—Relief of certain settlers on restored railroad lands. 63, 180
March 3, 1881—Adding proviso, relative to climatic hindrances, to section 2297, Revised Statutes. 19, 23, 155, 181
August 7, 1882—Deposits for surveys. 102, 159–160, 181
March 3, 1883—Certain fees allowed registers and receivers. 140, 181–182
May 17, 1884 (sec. 8)—Making Alaska a land district, etc. 3, 182
July 4, 1884—Indian homesteads. 34, 183
July 5, 1884—Providing, generally, for disposal of abandoned military reservations. 80–82, 188
May 6, 1886—Additional homesteads under acts of March 3 and July 1, 1879. 33, 183
August 4, 1886—Registers' and receivers' fees and salaries. 140–141, 183–184
March 3, 1887—
Registers' and receivers' fees and salaries. 140–141, 183–184
Reimbursement on account of failure of title in Kansas and Nebraska. 107–109, 184–185
Adjustment of railroad land grants and forfeiture of unearned lands. 64–70, 185–187, 240
October 12, 1888—Sale of township plats and maps of States and Territories. 138
January 14, 1889—Chippewa Indian lands, Minnesota. 48
March 2, 1889—
Withdrawal of lands from private entry; second homesteads; leaves of absence to settlers; price of certain lands; additional homesteads, etc. 4, 16–17, 20, 27–29, 85, 187–188, 236
Great Sioux Indian Reservation. 60–62, 189–201
(Secs. 12–15)—Muscogee or Creek and Seminole lands, Oklahoma. 48, 51, 204–206, 207–209
May 2, 1890 (secs. 18–25)—Disposal of lands in Oklahoma. 48–60, 209–213
May 26, 1890—Officers before whom affidavits and proofs may be made. 10, 12, 15, 42, 95, 213, 242
June 20, 1890—Reservoir lands in Wisconsin and Minnesota. 63, 214
August 29, 1890—Amendatory of act of June 22, 1874. 71
August 30, 1890—Prohibiting one person from acquiring more than 320 acres of agricultural public land. 5, 41, 88–89, 226
September 29, 1890—Forfeiting certain railroad grants. 75–80, 215–218, 219–220, 230, 246–247
September 30, 1890—Joint resolution extending time of payment for homesteads and preemptions. 10, 25, 264
October 1, 1890—
Relief of settlers on Northern Pacific Railroad indemnity lands. 71–72, 219
Vacancy in office of register or receiver. 86–87
February 13, 1891—Sac and Fox and Iowa lands, Oklahoma. 48–51
February 18, 1891—Amendatory of act of September 29, 1890. 79, 219–220
February 28, 1891—Amending sections 2275 and 2276, R. S. 150–151
March 3, 1891—
Absentee Shawnee, Pottawatomie and Cheyenne and Arapahoe Indian lands, Oklahoma. 48, 51–52
Relating to Crow Indian lands, Montana. 20
Repealing timber-culture and preemption laws, amending desert-land act, and sections 2288–2290 and 2301, Revised Statutes, etc. 3–4, 11, 19, 25, 36, 39–41, 47, 85, 88–89, 92, 93, 95, 109–112, 123–124, 129–135, 140–141, 220, 221–228, 232, 260
Amending section 8 of the foregoing act. 70, 220
July 26, 1892—Heirs of deceased contestant. 92, 228
August 4, 1892—Making the timber and stone law applicable to all public land States. 45, 231, 255
March 3, 1893—
Kickapoo lands, Oklahoma. 48–49, 228–229
Proof in timber-culture entries, and relief of purchasers of land under invalid soldiers' additional certificates. 30, 36–37, 232
Cherokee Outlet, Tonkawa, and Pawnee lands. 48, 52–53
October 20, 1893—Commutation of homesteads on certain lands in Oklahoma, and extension of time of payment to certain settlers. 52–53, 229
December 12, 1893—Amendatory of act of September 29, 1890. 79, 230
January 11, 1894—Disqualification of register or receiver to hear and determine land cases. 94
July 18, 1894—Amending section 2324, R. S., relative to mining claims. 232

Acts of Congress—Continued. Page.
July 26, 1894—Extension of time for proof and payment 10–11, 14, 40, 93, 94, **230**, 264
August 4, 1894—Extension of time for proof in desert-land cases . **41**, 93, **231**
August 15, 1894 (sec. 19)—Commutation of lands in Cherokee Outlet .. 53, **234**
August 18, 1894—Validation of soldiers' additional homestead certificates 30–31, **234**, 259
August 20, 1894—Amending sections 2401 and 2403, Revised Statutes, relative to deposits for surveys 97–103, **233–234**
August 23, 1894—Abandoned military reservations 81–82, **235**, 238
December 13, 1894—Location and satisfaction of warrants and scrip ... 8, **236**
December 29, 1894—Second homesteads in certain cases 20–21, **236**
January 19, 1895—For relief, on account of forest fires, of homestead settlers in Wisconsin, Minnesota, and Michigan 16, 18, 25–26, **236**
January 21, 1895—Right of way for tramroads, canals, or reservoirs. **237**, 247
February 15, 1895—Extending provisions of act of August 23, 1894, relative to abandoned military reservations 81, **238**
February 26, 1895—Sale of isolated tracts 5, **238**
March 2, 1895—
Appointment of commissioners by chief justices of the United States courts in Territories 12, 15, 38, 42, **239**, 263
Extension of time of payment for ceded Indian lands in Oklahoma, North Dakota, South Dakota, Nebraska, Montana, and Idaho ... 52, **239**
January 23, 1896—Amending act of September 29, 1890 ..... **76**
February 12, 1896—Payment for certain railroad lands **70, 240**
February 26, 1896—Extension of time for proof and payment on ceded Indian lands in South Dakota 11
March 2, 1896—Suits to vacate patents erroneously issued to railroads, etc 70, 95, **240–241**
March 4, 1896—Timber-culture proof 38, **242**
April 14, 1896—Lands occupied by settlers within indemnity limits of New Orleans Railroad 71, **242**
May 28, 1896—Providing for United States commissioners in place of United States circuit court commissioners 12, 15, 38, 42, **242–243**, 263
June 3, 1896—
Commutation of homesteads 25, **243–244**
Northern Pacific indemnity lands 72–73, **244–245**
June 10, 1896—Extension of time for payment to homestead settlers on all ceded Indian lands 11, 53
January 18, 1897—Greer County, Okla., lands 58–60, **245–246**
February 18, 1897—Amending act of September 29, 1890 ..... 79, **246**
June 7, 1897—Extension of time for payment to settlers on all ceded Indian lands 11, 53
June 23, 1897—Additional legislation in regard to lands in Greer County, Okla 58, **247**
April 11, 1898—Commutation of Kickapoo lands, Okla 52
May 11, 1898—Rights of way **247**
May 14, 1898—Lands in Alaska 3, 113–129, **248–255**
May 18, 1898—Abolishing distinction between offered and unoffered lands, etc 4, **255**
June 16, 1898—Relief of settlers who serve in Army, Navy, or Marine Corps in time of war 22, 94, **256**
July 1, 1898—
Extension of time for payment to settlers on all ceded Indian lands. 11, 53
Conflicting claims within limits of Northern Pacific grant **73–75**, **256–258**
March 1, 1899—Greer County, Okla., lands 58, **258**
March 3, 1899—Payments required for Sioux Indian lands 62
Additional homesteads 27–34
Acts of March 3 and July 1, 1879, and May 6, 1886, granting additional rights to settlers within railroad limits 31–34, **171, 172, 183**
Act of March 2, 1889, sections 5 and 6, providing for additional entries in certain cases 27–29, **188**
Act of March 3, 1893, for relief of purchasers of land under invalid certificates of right 30, **232**
Act of August 18, 1894, validating certificates of right in hands of bona fide purchasers 30–31, **234**
Assignment of certificates under act of August 18, 1894 30–31

Additional Homesteads—Continued. Page.
Forms—
Affidavit (4—086) 282
Affidavit (4—065), soldiers and sailors' additional 284
Application (4—018) 282
Application (4—008), soldiers and sailors' additional 284
Assignment of soldiers' additional certificates of right 300
Final certificate (sec. 2306, Rev. Stat.) 285
Soldiers and sailors' additionals—
Under section 2306, Revised Statutes 29–31, **156**, 259
Rights of widow and minor orphan children under section 2307, Revised Statutes 29–31, **156**
Soldiers and sailors' additional entries on unsurveyed lands in Alaska 114–115
Adjoining farm homesteads (sec. 2289, Rev. Stat.) 21, **153**, **223**
Forms—
Original affidavit (4—066) 281
Final affidavit (4—067) 281
Adjustment of railroad grants 64–80, **185–187**, **240–241**, **242**, **256–258**
Administrator:
Applications for repayment 106
Preemption proof by (sec. 2269, Rev. Stat.) **149**, 264
Sale of homestead, under section 2292, Revised Statutes 15, **154**
Affidavit:
Nonmineral (4—062) required in entries in certain States 5, 87, 299
Officers authorized to administer oaths in entries and proofs—
Register and receiver (secs. 2246 and 2262, Rev. Stat.) **146**, **147**
Judge, or in his absence, clerk of court of record (act of March 3, 1877) **165**
Clerk of court in certain cases (act of June 9, 1880) **178**, 263
Commanding officer, where applicant is in military or naval service (sec. 2293, Rev. Stat.) 12, **154**
United States circuit court commissioners (until the office was abolished by act of May 28, 1896) and judges and clerks of court (act of May 26, 1890) 10, 12, 15, 42, 95, **213**, 242, 263
United States commissioners in Territories (act of March 2, 1895) 12, 15, 38, 42, **239**, 263
United States commissioners (act of May 28, 1896) 12, 15, 38, 42, **242–243**, 263
Of contest may be made before an officer authorized to administer oaths 91
Required in all entries under act of August 30, 1890 (4—102*b*) **88**, 89, 272
Agents and attorneys, regulations governing recognition of 103–105
Agricultural college scrip:
Instructions relative to location of 9
Locating fee, same as for land warrant (sec. 2238, Rev. Stat.) **144**
Location in lieu of payment (sec. 2278, Rev. Stat.) 9–10, 24, 27, **151**
Alaska:
Act of May 17, 1884, section 8, creating a land district, providing for perfection of mineral claims, and that the general land laws shall not apply 3, **182**
Act of March 3, 1891, sections 11–15, relative to survey and entry of townsites 3, 129–135, **224–226**
Act of May 14, 1898, providing additional legislation 3, 113–129, **248–255**
Section 1, homestead rights 114–115
Sections 2 to 9, rights of way 115–122
Section 10, entries for trade, etc 122–126
Section 11, timber on public lands 126–128
Section 12, land districts 128
Section 13, mining rights 128–129
Alienation:
Assignee of preemptor before patent 264
Attempted transfers of homesteads entered prior to date of act condoned by act of June 15, 1880, section 2, and claimants allowed to pay cash for land 26–27, **178–179**
Homestead not salable before claimant is entitled to patent 19
Settlers may transfer portions of their claims for certain public purposes (sec. 2288, Rev. Stat.) 19, **152**, **222**
Amendments of applications and entries 90–91
Changes of entry 135–137

Page.
Appeals 96–97
From action of register and receiver 80, 96–97, 105, **149**
From decisions of General Land Office (secs. 441 and 2273, R. S.) .. 97, 143, **149**
Applications:
Applicant must give residence, occupation, and postoffice address 14, 42
For land in Ohio, Indiana, and Illinois 95–96
Simultaneous homestead 13
To contest entries during vacancy in local office 87
To enter land covered by existing entry 92
To enter land during vacancy in local land office 87
To enter less than is allowed by law 27, 34
To enter rejected 96
Where homestead applicant does not appear at local office 12, **154**
Assignee of preemptor before patent 264
Assignees in applications for repayment 106
Assignment of certificates of deposit 101, **170–171**
of desert-land entries 40, 41, 44
of soldiers' certificates of right 30–31
of soldiers' additional homestead rights, uncertified 30
of warrants and scrip 9
Attesting officers, duties of 85–86
Attorneys and agents, regulations governing recognition of 103–105

B.

Board of equitable adjudication:
Object and powers of, defined by sections 2450–2457, R. S 135, **160–161**
Rules and regulations governing 265–270
Bounty-land warrants, military 6–10, 24, 27, 136, **151, 160, 236**

C.

Canal and ditch companies
formed for the purpose of irrigation, right of way granted to (act of March 3, 1891, secs. 18–21) **226–227**
Cash:
Entry, change of 135–137
Entry, mode of proceeding to make 6
Forms—
Application (4—001) 271
Certificate (4—189) 271
Receipt (4—131) 271
Payment, warrants and scrip in lieu of 6, 8, 24, 27, **151, 169**
Certificates of right, soldiers and sailors' additional homestead 30–31
232, 234, 259, 300
Certified copies:
Revised Statutes relating to (secs. 461, 891, and 2469–2470) **143–144, 162**
Rules and regulations governing the furnishing of 137–138
Changes of entry (cash) and location 135–137
Amendment of applications and entries 90–91
Cherokee Outlet, Oklahoma 48, 52–53, 234
Cheyenne and Arapahoe lands, Oklahoma 48, 51–52, **229, 239**
Chippewa lands, Minnesota 48, 245
Citizenship and naturalization 87
Climatic hindrances (act of March 3, 1881, amending sec. 2297, Rev. Stat.) 19, 23, **155, 181**
Commissioner of the General Land Office:
Duties of, under section 453, Revised Statutes **143**
Authorized by section 2478, Revised Statutes, to make appropriate regulations to enforce land laws **162**
On board of equitable adjudication 135, **160–161**, 265–270
Commutation:
Homestead—
Act of June 15, 1880, section 2 ..... 26–27, **179**
Act of January 19, 1895, sections 2 and 3 ..... 25–26, **236**
Oklahoma lands 50–58
Section 2301, Revised Statutes 24–25, **155, 223**, 243–**244**

Commutation—Continued. Page.
Military bounty land warrants and certain scrip in payment for lands.. 6–10, 24, 27, **151**, **160**, **236**
Timber-culture entries, act of March 3, 1891, section 1..... 36, **221**
Timber trespassers, act of June 15, 1880, section 1..... 6, **178–179**
Confirmation of suspended entries—
By board of equitable adjudication..... 135, **160–161**, 265–270
Under act of March 3, 1891, section 7..... 89–90, **223**
Under act of June 3, 1896..... 25, **243**
Conflicting claims to lands, due to simultaneous applications..... 13
Contests..... 91–94
Affidavit required in each case..... 91
Affidavits may be made before officers authorized to administer oaths.. 91
Against any entry, location or selection may be instituted for any cause sufficient to affect its legality or validity..... 91
Against desert-land entry for failure to fulfill requirements of law... 40, 44, 93
Against desert-land, homestead, preemption, or timber-culture entry not admissible after two years from date of final certificate..... 92
Against desert-land, homestead, or timber-culture entry for causes other than abandonment or failure to comply with law..... 93
Against entries for illegality or invalidity may be initiated at any time before patent..... 93
Against heirs of deceased entrymen..... 92
Against homestead entry for abandonment..... 93, **155**
Where entryman has been granted leave of absence..... 92
Within statutory period to submit proof where entryman has earned a patent by five years' residence, etc..... 94
Against homestead entry commuted for townsite purposes, Oklahoma.. 56
Against homestead settlers who were soldiers in Spanish war..... 94, **256**
Against timber and stone entry..... 46
Against timber-culture entry for noncompliance with law..... 39, 93, **169**
Application to contest—
Must be filed in district office..... 91
Presented during vacancy in local office..... 87
Case closed at district office, no additional evidence will be admitted except under certain conditions..... 92
Forms—
Affidavit of contest against homestead entry (4—072)..... 301
Notice of contest (4—345)..... 301
Heirs of deceased contestant may continue prosecution of contest (act of July 26, 1892)..... 92, **228**
Instructions relative to initiation of contests..... 91–94
Preference right of successful contestant (act of May 14, 1880, sec. 2).. 39, 44, 91, **174**, **228**
Preference right not acquired if contest is not prosecuted in good faith. 94
Register's and receiver's fees for reducing testimony to writing (sec. 2238, Rev. Stat., and act of March 3, 1883, sec. 1)..... 140, **145**, **181**
Register's fee for notice to contestant of cancellation of contested entry (act of May 14, 1880, sec. 2)..... 140, **174**, **228**
Registers and receivers disqualified to hear causes in certain cases (act of January 11, 1894)..... **94**
Relinquishment filed pending contest..... 93
Service of notice of hearing..... 92–93
Speculative and collusive contests..... 94
Contiguity of land, embraced in an entry..... 50, 88
Conversion of preemption into homestead (act of June 14, 1878).. 16, **167**, **187**
Copies, certified..... 137–138, **143–144**, **162**
Creek (or Muscogee) lands, Oklahoma..... 48, 51, **204–206**, 207–209
Crops, destruction or failure of:
Leaves of absence for..... 16–17, **176–177**, **187**
Second homestead entry for..... 20–21, **236**
Crow Indian lands, Montana, second homesteads on..... 20
Cultivation:
In grazing districts..... 14
In case of death of homestead entryman..... 15, 21

D.

Page.

Death of homestead settler, heirs of (secs. 2291 and 2292, Rev. Stat.) .. 15, 92, **154**
of preemptor, heirs of (sec. 2269, Rev. Stat.) **149**, 264
of contestant 92, **228**
of entryman, contest against heirs 92
second homestead entry by heirs, etc., act of June 3, 1896 ..... 72–73, **244**
timber-culture entryman, heirs of 38, **168**
Debt, homestead and timber-culture claims not liable for (sec. 2296, Rev. Stat., acts of June 14, 1878, sec. 4, and March 3, 1891, sec. 1) 19
39, **155**, **169**, **221**
Deposits for special surveys 97–103, **159–160**, **170**, **181**, **233–234**
Deserted wife, rights of, under homestead laws 12
Desert land 39–44, **164**
Act of March 3, 1877, providing for sale of, in certain States and Territories 39–44, **164**
Act of March 3, 1891, section 2, amending preceding act 39–40, **221**
Annual expenditure required 40
Assignment of entries 40, 41, 44
Contests against 40, 44, 93
Contests, preference right of successful contestant 44
Delinquent claimants, notice to 44
Declaration—
Character of 41–42
Corroboration by two reputable witnesses 42
Map showing contemplated irrigation, required 40
Entry, right of, restricted to residents of State or Territory 40
Entrymen and witnesses must state their places of residence, post-office addresses, etc 42
Extension of time to make proof and payment (acts of July 26, 1894, sec. 1, and August 4, 1894) 40–41, 93, **230**, **231**
Forms—
Affidavit required of assignees (4—074 *a*) 296
Affidavit required of witness (4—074) 293
Declaration (4—274) 291
Declaration, certificate as to filing of (4—199) 294
Proof, annual, by claimant (4—074 *b*) 296
Proof, annual, by witnesses (4—074 *c*) 297
Proof, final, by claimant (4—372 *a*) 294
Proof, final, by witnesses (4—373 *a*) 297
Receiver's final receipt (4—143) 298
Register's final certificate (4—200) 298
Irrigation, requirements as to 43, **164**
Land subject to entry 39–40
Maximum quantity of land allowed to be entered and held by one person or association 40–41
Notice of intention to make proof 44
Notice to delinquent claimants 44
Officers before whom affidavits, declarations, and proof may be made .. 42
Payments—
Price of land 41
Required to be made when filing declaration 42
Military bounty land warrants and scrip locations in payment for lands entered 8–9
Proof—
Annual, nature of, required 40
Annual, penalty for failure to file 40
Annual, third-year requirements 40
Final, requirements as to 41, 43–44
Final, notice of intention to be published 44
Final, submitted on unsurveyed land 43
Period covered by departmental order to be excluded in computing time for reclamation and proof 93
Qualifications requisite to make entry 40–42, **164**
Relinquishment of, how treated 44
Right exhausted by entry 43
Survey of desert-land claims 43
Suspended final entries, confirmation of 135, 160–161, **223**, 265–270

Devisee of homestead claim 15, 154
Diminished-reserve lands, Osage Indian trust and 4, 47–48, **151–152, 174–176, 227**
District land offices:
List of 270
States in which there are none 95–96
Divorced wife, rights under homestead laws 12
Double-minimum excess, repayment of (act of June 16, 1880, sec. 2) 105, 107, **179**
Double-minimum lands, definition of (sec. 2357, Rev. Stat.) 4, **158**
Duties of attesting officers 85–86
of register and receiver 138–142, **144–146**

E.

Entry:
Amendments of 90–91
Changes of (cash) 136
For less acreage than the law allows 27, 34
Homestead or preemption, where claimant is appointed register or receiver (sec. 2287, Rev. Stat.) **152**
Joint, under sec. 2274, Revised Statutes 149
Minor who served fourteen days in Army or Navy during a war can make homestead (sec. 2300, Rev. Stat.) **155**
Not allowed for lands in possession of Indian occupants 88
Should not be allowed for land covered by existing entry 92
Soldiers' and sailors' additional homestead not allowed for land in Oklahoma 49–50
Soldiers' and sailors' additional homestead not allowed for land in Great Sioux Reservation 61
Suspended final and cash, confirmation of 135, 160–161, **223**, 265–270
Equitable adjudication, board of 135, **160–161**, 265–270
"Erroneously allowed" entry, definition of 105
Executor:
Application for repayment by 106
Proof by, of estate of deceased preemptor (sec. 2269, Rev. Stat.) **149**, 264
Sale of claim of deceased homesteader by (sec. 2292, Rev. Stat.) 15, **154**
Extension of time:
To make payment on homestead and preemption claims, joint resolution of September 30, 1890 ..... **10–11**, 25, 264
To make first payment on Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe lands, Oklahoma, acts of October 20, 1893, and March 2, 1895 ..... 52, **229, 239**
To make final proof and payment on homestead and desert-land claims, act of July 26, 1894, section 1 ..... 14, 40, 93, 94, **230**
To make final payments on preemption entries, act of July 26, 1894, section 2 ..... **10–11, 230**, 264
To make final proof on desert-land entries, act August 4, 1894 ..... **41, 231**
To make final proof on homesteads visited by forest fires in Wisconsin, Minnesota, and Michigan, act of January 19, 1895 ..... 18, **236**
To make proof and payment on homestead claims located on ceded Indian lands in South Dakota, act of February 26, 1896 11
To make payment to settlers on all ceded Indian lands, acts of June 10, 1896, June 7, 1897, and July 1, 1898 ..... 11, 53

F.

False swearing 12, 45, **147, 162, 166, 169, 213**
Fees and commissions:
Certificates of deposit for surveys not receivable in payment of 101
Consolidated land district, fee allowed register for making transcript and for furnishing other record information (sec. 2239, Rev. Stat.) **145**
Fee for declaratory statement—
Preemption (sec. 2238, Rev. Stat.) **144**, 261
Soldier's or sailor's (secs. 2238 and 2309, Rev. Stat.) 22, **144, 157**
Fee for—
Furnishing for taxation purposes lists of lands sold (act of March 3, 1883, sec. 2) **182**
Furnishing township plats and diagrams (act of March 3, 1883, sec. 2) 140, **181–182**

Fees and Commissions—Continued. Page.
Fee for—
Locating warrant or scrip (sec. 2238, Rev. Stat.) 8, 144–145
Notice of cancellation of a contested entry (acts of May 14, 1880, sec. 2, and July 26, 1892) 140, 174, 228
Reducing testimony to writing, or for examination and approval of same if taken before other officers (sec. 2238, Rev. Stat., paragraphs 10, 11, and 12; acts of March 3, 1877, sec 1; June 3, 1878, sec. 3; March 3, 1883, sec. 1, and March 3, 1891, sec. 1) 36, 85, 140–141, 145, 165, 181, 221
Fee—
In timber and stone entries, same as in mining claims (act of June 3, 1878, sec. 3) 166
Not authorized for a plat or diagram of a section, or part of a section 140
Of officers, other than registers and receivers, in entries and proofs (act of May 26, 1890) 213–214
Prohibited, if not provided for by law (sec. 2242, Rev. Stat.) 141, 146
Register and receiver to administer oaths in land entries and sales without compensation (sec. 2246, Rev. Stat.) 146
Fees and commissions—
In homesteads, original entries, and final proof (sec. 2238, Rev. Stat.) 35, 144–145
In timber culture final proof, same as in homestead (act of March 3, 1891, sec. 1) 36, 144, 221
In certain States 50 per cent additional (sec. 2238, Rev. Stat.) 35, 145
Not required in Indian homesteads 34, 183
Not required on homestead entries made under the acts of March 3 and July 1, 1879 ..... 33, 172, 183
Filing of plats, notice of 87
Filings:
Desert-land declaration 41–42
Homestead, soldiers' and sailors' 22–24, 156
Preemption declaratory statement 148, 261
Timber and stone, sworn statement 45–46, 166
Final Proof:
Claimant must state his residence and post-office address 83
Desert land 40–44
Duties of officers other than registers and receivers, taking 85–86
Duties of local officers acting on proof 86
Homestead 14–15, 24–26
Marriage of single woman who made homestead entry does not affect her right to make proof 12
Notice of intention to make proof 83–84
Officers before whom proof may be made—
Desert land 42
Homestead 14–15
Preemption 263
Timber and stone 46
Timber culture 38
Preemption 262–263
Publication of notice of intention to make 83–84
Should be made at time and place and before officer named in notice 85
Timber and stone 46
Timber culture 36
Without payment not to be received by registers and receivers 86
Forest fires:
Commutation of claims visited by 25–26, 236
Leave of absence for 16, 236
Forest reservations may be established by President (act of March 3, 1891, sec. 24) 228
Forfeited railroad lands 75–80, 215–218, 230
Forms:
Affidavit (4—102*b*) required in all entries since August 30, 1890 272
Application to enter (act of January 13, 1881, relative to settlers within railroad limits) 63
Assignment of soldiers' and sailors' certificates of right 300
Cash application (4—001) 271
Cash certificate (4—189) 271

Forms—Continued. Page.
Cash receipt (4—131) 271
Contest—
Affidavit of, against homestead entry (4—072) 301
Notice of (4—345) 301
Desert land—
Affidavit (4—074*a*) required of assignee of an entryman 296
Affidavit (4—074) of witness 293
Certificate of filing of declaration (4—199) 294
Declaration (4—274) 291
Proof, annual (4—074*b*), testimony of claimant 296
Proof, annual (4—074*c*), testimony of witnesses 297
Proof, final (4—372*a*), deposition of applicant 294
Proof, final (4—373*a*), deposition of witness 297
Receiver's final receipt (4—143) 298
Register's final certificate (4—200) 298
Homestead—
Affidavit 4—063 275
Affidavit 4—065 (soldiers' and sailors') 284
Affidavit 4—086 (additional entry) 282
Affidavit 4—066 (adjoining farm) 281
Affidavit 4—067 (adjoining farm, final) 281
Affidavit 4—070 (final) 278
Affidavit 4—102 ("nonsooner" required in Oklahoma) 276
Affidavit 4—069 (required in entries commuted under sec. 2301, R. S. 280
Affidavit 4—102*a* (required of applicants for reservoir lands, act of June 20, 1890) 285
Affidavit 4—102*c* (required in commuted entries in Oklahoma) 276
Application 4—007 274
Application 4—018 (in additional entry) 282
Application 4—015 (soldiers' and sailors') 284
Application 4—008 (soldiers' additional) 284
Certificate as to posting of notice of intention to make proof (4—227) 277
Declaratory statement, soldiers' (4—546), when filed in person 283
Declaratory statement, soldiers' (4—545), when filed by agent 283
Notice of intention to make proof (4—348) 276
Notice for publication (4—347) 277
Notice for publication (4—347) (consolidated notice) 277
Preemption homestead affidavit (4—071) 281
Proof (4—369) 278
Proof, five-year notice (4—343) 285
Proof, seven (or eight) year notice (4—344) 286
Receiver's receipt (4—137) 275
Receiver's receipt (4—140), final 280
Receiver's receipt (4—140*a*), for purchase money, paid in installments 280
Register's final certificate (4—196) 280
Register's final certificate (4—197), soldier's additional 285
Nonmineral affidavit (4—062) 299
Notice for publication (sale of isolated tract) 299
Oklahoma town sites, final certificate for reservations 301
Preemption—
Affidavit (4—061) 273
Declaratory statement (4—534), for offered lands 272
Declaratory statement (4—535), for unoffered lands 272
Homestead affidavit (4—071) 281
Proof (4—374) 273
Receipt and certificate (4—536) 272
Relinquishment required of applicants for repayment under act of March 3, 1887 109
Relinquishment of warrant or location 9
Rights of way in Alaska, proof and verification of maps 302–304
Timber and stone—
Proof (4—371), testimony of witness 291
Sworn statement (4—537) 290

Forms—Continued. Page.
Timber culture—
Affidavit (4—073a), in commutation (sec. 1, act of March 3, 1891) .. 289
Proof (4—385), testimony of claimant and final affidavit 286–287
Proof (4—386), testimony of witness 288
Receiver's receipt (4—148), final 289
Register's final certificate (4—217) 290

G.

General rules applicable to different classes of entries 83–88
Grasshopper incursions, leaves of absence for 16–18, **173**
Grazing districts, cultivation in 14
Greer County, Oklahoma 58–60, **245, 247, 258**
Guardian—
Of infant children of deceased homesteader, sale of homestead by (sec. 2292, Rev. Stat.) 15, **154**
Of insane settler 15, 92, **177**, 264
Of minor orphan children of soldier or sailor 29, **156**

H.

Hearing:
Disqualification of register or receiver 94
To be ordered in case of protest against timber and stone proof 46
Service of notice of 93
Heirs:
In applications for repayment 106
Of deceased contestant 92, **228**
Of deceased entryman in case of contest 92
Of deceased homesteader 15, 92, **154, 236–237**
Of deceased Indian homesteader 34, **183**
Of deceased preemptor (sec. 2269, Rev. Stat.) **149**, 264
Of deceased timber-culture entryman 38, **168**
Second homestead entry by, act of June 3, 1896 ..... 72–73, **244**
Homestead:
Abandonment for more than six months (sec. 2297, Rev. Stat.) 12, 93, **155**
Abandonment after removal of timber 35
Additional, by settlers within railroad limits 31–34, **171, 172, 183**
Additional, act of March 2, 1889, secs. 5 and 6 ..... 27–29, **188**
Additional, soldier's and sailor's, under sec. 2306, R. S 29–31, 49–50, 61, **156**
Additional, soldier's and sailor's, rights of widow and minor orphan children (sec. 2307, Rev. Stat.) 29–31, **156**
Additional, soldier's certificates of right 30–31, **232, 234**
Additional, soldier's and sailor's, allowed on unsurveyed land in Alaska 114–115
Adjoining farm, under section 2289, Revised Statutes 21, **153, 223**
Affidavit required under section 2290, R. S., character of 13, **153, 223**
Affidavit required of settlers who do not appear at district office 12, **154, 213**
Affidavit required where applicant is serving in military or naval service (sec. 2293) **154**
Alaska, regulations concerning entries in 114–115
Alienation allowed for certain public purposes (sec. 2288, Rev. Stat.) 19, **152**
Alienation, homestead not salable before claimant is entitled to patent .. 19
Amendments of applications and entries 90–91
Applicant must give residence, occupation, and post-office address 14
Application—
For a homestead 13
To enter, rejected 96
To enter land covered by existing entry 92
Applications (simultaneous) to enter same tract 13
Claimant appointed register or receiver (sec. 2287, Rev. Stat.) **152**
Climatic hindrances, residence not established within six months 19, 23, **155, 181**
Commutation—
Under section 2301, Revised Statutes 24–25, **155, 223, 243–244**
Under act of June 15, 1880, section 2 ..... 26–27, **179**
Under act of January 19, 1895, sections 2 and 3 ..... 25–26, **236**
Of Oklahoma lands 50–60
Contest against 92, 93, 94
Cultivation in grazing districts 14

Homestead—Continued. Page.
Debt, lands not liable to, prior to patent (sec. 2296, Rev. Stat.) 19, **155**
Declaratory statement, soldier's and sailor's 22–24, **156**
Descent of vested right under sections 2291 and 2292, Rev. Stat. 15, 92, **154**
Deserted or divorced wife 12
Devisee, under section 2291, Revised Statutes 15, **154**
Election to enter less than allowed by law 27, 34
Extensions of time to make proof and payment 10–11, 14, 18, 25, 52, 53, 94, **229, 230, 236, 239**
Fees and commissions (sec. 2238, Rev. Stat.) 22, 35, **144, 157**
Forms—
Affidavit 4—063 (original entry) 275
Affidavit 4—065 (soldier's, original entry) 284
Affidavit 4—086 (additional entry) 281
Affidavit 4—071 (preemption homestead entry) 281
Affidavit 4—066 (adjoining farm) 281
Affidavit 4—067 (adjoining farm, final) 281
Affidavit 4—070 (final) 278
Affidavit 4—102 ("nonsooner" required in Oklahoma) 276
Affidavit 4—069 (required in entries commuted under sec. 2301, R. S.) 280
Affidavit 4—102*a* (required of applicants for reservoir land, act of June 20, 1890) 285
Affidavit 4—102*c* (required in commuted entries in Oklahoma) 276
Application (4—007) 274
Application (4—018), in additional entry 282
Application (4—015), soldiers and sailors' 284
Application (4—008), soldier's additional 284
Certificate of posting of notice of intention to make proof (4—227) 277
Declaratory statement, soldier's (4—546), when filed in person 283
Declaratory statement, soldier's (4—545), when filed by agent 283
Notice of intention to make proof (4—348) 276
Notice for publication (4—347) 277
Notice for publication (4—347) (consolidated notice) 277
Proof (4—369) 278
Proof, five-year notice (4—343) 285
Proof, seven (or eight) year notice (4—344) 286
Receiver's receipt (4—137) 275
Receiver's receipt (4—140), final 280
Receiver's receipt (4—140*a*), for purchase money paid in installments 280
Register's final certificate (4—196) 280
Register's final certificate (4—197), soldier's additional 285
Heirs of deceased homesteader 15, 72–73, 92, **154**
Indian 34, **183**
Insane claimant 15, **177**
Joint entry (sec. 2274, Rev. Stat.) **149**
Lands subject to entry 11, **153**
Leaves of absence 16–18, **173, 187, 236–237**
Contest against entry where leave of absence has been granted 92
Marriage—
Of single woman who made entry 12, 33
Of two parties, each having an unperfected homestead entry 12
Mineral lands not subject to (sec. 2302, Rev. Stat.) **156**
Minor who served fourteen days in Army or Navy during a war (sec. 2300 Rev. Stat.) **155**
Minor orphan children—
Of soldier or sailor 24, 29, **156**
Sale of claim in case of death of both parents (sec. 2292, R. S.) 15, 92, **154**
Notice, five, seven, and eight years 34
Officers before whom affidavits and proof may be made 14, 15
Oklahoma lands 48–60
Proof—
Commutation, instructions regarding 24–26
Climatic reasons preventing establishment of residence within six months 19
Credit for military service 22, **156**
Cultivation in grazing districts 14
Devisees 15
Duties of attesting officers 85–86

Homestead—Continued. Page.
Proof—Continued.
Extension of time to make final ... 14, 94, **230**
Final, instructions regarding ... 14–15
Heirs, compliance with law required of ... 15
Insane claimant, perfecting title to claim ... 15
Marriage of single woman does not affect right to make ... 12
Must be made by claimant or his statutory successor ... 15
Notice of intention to make ... 14, 83, **171**
Publication of notice of intention to make ... 14, 84, **171**
Required on adjoining farm entry ... 21
Required on additional entries ... 27–34
Should be made at time and place and before officer named in notice ... 85
Widow of deceased entryman ... 15
Preemption, conversion into homestead ... 16, **167**, **187**
Qualifications to make entry ... 11
Register or receiver, claimant appointed (sec. 2287, Rev. Stat.) ... **152**
Relinquishments of claims ... 91, **174**
Reservoir lands ... 63, **214**
Residence—
Absence from the land for more than six months ... 12, 93, **155**
Beyond five years not required ... 94
By widow, heirs or devisee, not absolutely required ... 15, 24
Credit for military service ... 22, 94, **156**, **256**
Requirements under homestead laws ... 14, 24–26
Settlers who were in Spanish war ... 22, 94, **256**
Within six months prevented by climatic reasons ... 19, 23, **155**, **181**
Revised Statutes relating to homesteads (secs. 2289–2312) ... **153–158**
Sale of claim—
Before claimant is entitled to patent ... 19
For benefit of infant children ... 15, **154**
Saline lands not subject to ... 82
Second entries ... 19–21
Acts of March 3 and July 1, 1879 ... 31–32, **171**, **172**
Act of March 2, 1889, section 2 ... 20, **187**
Act of September 29, 1890, section 2 ... 20, 75, **215**
Act of March 2, 1889, section 13 (Oklahoma lands) ... 20, 49, **205**
Act of February 13, 1891, section 7 (Sac and Fox and Iowa lands, Oklahoma) ... 20, 49
Act of March 3, 1891 (Crow Indian lands, Montana) ... 20
Act of March 3, 1893, section 3 (Kickapoo, Oklahoma) ... 20, 49, **228**
Act of December 29, 1894 ... 20–21, **236**
Act of June 3, 1896 ... 72–73, **244**
Settlers on unsurveyed land—
Act of May 14, 1880, section 3 ... 13, **174**
School sections (sec. 2275, Rev. Stat.) ... **150**
Settlers who were soldiers in Spanish war ... 22, 94, **256**
Simultaneous applications ... 13
Sioux Indian lands ... 60–62, **189–201**, 201–204
Soldiers and sailors' declaratory statements ... 22–24, **156**
Stockbridge Munsee Indians ... **157**
Suspended final and cash entries, confirmation of ... 135, 160–161, **223**, 265–270
Widow, rights of ... 15, 29–31, **154**, **156**
Homestead right, restoration of ... 19–21

I.

Illegal entrance upon lands in Oklahoma ... 50
Illinois, entry of vacant public lands in ... 3, 95
Indemnity lands, settlers on Northern Pacific Railroad ... 71–75
Indian homesteads ... 34, **183**
Indian lands, disposal of, under special statutes ... 47–62
Indian occupants, no entries allowed for lands in possession of ... 88
Indiana, entry of vacant public lands in ... 3, 95
Information regarding vacant public lands to be obtained from district land offices, a list of which appears on page 270 ... 3
Insane settlers ... 15, 92, **177**, 264
Iowa Indian lands, Oklahoma ... 48–51

Page.

Irrigation—
Of desert land 43, 164
Right of way to companies for (act of Mar. 3, 1891, secs. 18–21) 226–227
Isolated tracts:
Instructions and law providing for public sale (sec. 2455, R. S.) 5, 161, 238
Form of notice for publication 299

J.

Joint entry under section 2274, Revised Statutes 149
Justice, seats of, grants for (sec. 2286, Rev. Stat.) 152

K.

Kickapoo lands, Oklahoma 48–49, 52, 228

L.

Land districts (with office established in each for disposal of public lands), States and Territories having 3
Land offices—
List of district 270
States having none 3, 95–96
Land warrants, military bounty 6–10, 24, 27, 136, 151, 160, 236
Leaves of absence 16–18, 173, 187, 236–237, 264
Contest against homesteader who has been granted leave of absence 92

M.

Maps (photolithographic) of States and Territories, sale of 138
Marriage of woman—
Who made homestead entry 12
Right to make additional under acts of March 1 and July 1, 1879 33
Marriage of two parties, each having an unperfected homestead entry 12
Married woman may make timber and stone entry in some States 45
Military bounty land warrants:
Change of location 136
Fees for locating (sec. 2238, Rev. Stat.) 7, 8, 144
Form of relinquishment of 9
Location and satisfaction of (secs. 2414–2415 and 2437, Rev. Stat., and act of December 13, 1894) 6–10, 160, 236
Location of, in lieu of payment 6–10, 24, 27, 151, 160, 236
Not issued for military service in late civil war 8
Military reservations, disposal of abandoned 80–82, 188, 235, 238
Mining claims:
Act of July 18, 1894, amending section 2324, Revised Statutes, relative to 232
In Alaska 128–129
Laws and instructions relative to, form the subject of a separate circular 142
Minimum lands, definition of (sec. 2357, Rev. Stat.) 4
Minor children—
Of deceased homesteader 15, 92, 154
Of deceased soldier or sailor 24, 29, 156
Minor who served fourteen days in Army or Navy during a war (sec. 2300, Rev. Stat.) 155
Muscogee lands, Oklahoma 48, 51, 204–206, 207–209

N.

Naturalization and citizenship 87
Nonmineral character of land, affidavit as to 5, 87, 299
"Non sooner," affidavit (form 4–102) 50, 276
"Non townsite" affidavit required in Oklahoma entries 51, 276
Northern Pacific Railroad indemnity lands, settlers on 71–75
Notice of filing of plats 87
Of hearing in case of contest 92–93
Of intention to make proof, publication of 83–84
Of official action, service of 83, 96–97, 139
To delinquent desert land claimants 44
To delinquent homestead claimants 34

O.

Page.
Offered lands, distinction between, and unoffered lands abolished 255
Officers authorized to administer oaths in preliminary affidavits and proof:
Registers and receivers, sections 2246 and 2262, Revised Statutes ... 146, 147
Commanding officer, where applicant is in military or naval service (sec. 2293, Rev. Stat.) 12, 154
Judge, or in his absence before clerk of court of record in final homestead proof, act of March 3, 1877 165
Clerk of court, in certain cases, act of June 9, 1880 ..... 178, 263
United States Circuit Court Commissioner (until the office was abolished by act of May 28, 1896) and judges and clerks of court, under act of May 26, 1890 ..... 10, 12, 15, 42, 95, **213**, **242**, 263
United States Commissioners—
In Territories, act of March 2, 1895 ..... 12, 15, 38, 42, **239**, 263
Act of May 28, 1896 ..... 12, 15, 38, 42, **242–243**, 263
Timber-culture claimant, testimony of, act of March 3, 1896 ..... 38, **242**
In affidavits of contest before an officer authorized to administer oaths .. 91
Ohio, disposed of lands in 3, 95
Oklahoma 48–60
Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe lands .. 48, 51–52, **229**, **239**
Act of May 2, 1890, sections 18–25, applicable to all lands in Territory .. 48, 50, 51, 53, 54–58, **209–213**
Affidavit, homestead, amendment of, necessary 48
Cherokee, Tonkawa, and Pawnee lands 48, 52–53, **234**
Citizenship, entryman required to be a citizen at time of submitting proof 51
Commutation of homestead for town-site purposes 54–58
Contest against homestead commuted for town-site purposes 56
Completion of title 50–53
Contiguous land, entries required to embrace 50
Entries, general homestead laws and rules govern with exceptions 48
Extension of time for payment 52, 53, **229**, **239**
Forms—
Affidavit, "non sooner" (4–102) 276
Affidavit required in commuted entries (4–102*c*) 51, 276
Greer county lands 58–60, **245**, **247**, **258**
Illegal entrance upon lands ("soonerism") 50
Instructions in regard to allowance of entries 48–50
Kickapoo lands 48–49, 52, **228**
Muscogee or Creek and Seminole lands 48, 51, **204–206**, **207–209**
Owner of 160 acres not entitled to make entry 48
Proclamation of President in regard to Muscogee or Creek and Seminole lands 207–209
Public land strip 48, 50, 53, **211–212**, **229**
Reservation between each section of land, for highways 51, **212**
Sac and Fox and Iowa lands 48, 51
Second entries 20, 48–49
Seminole lands 48, 51, **204–209**
Soldiers' and sailors' rights 49–50
"Soonerism" 50
Town sites, commutation of homesteads for 54–58
Osage Indian trust and diminished reserve lands:
Laws and rules governing disposal of 47–48, **151–152**, **174–176**
Not affected by laws prohibiting private entry 4
Second entries, confirmed in certain cases by act of March 3, 1891, section 23 227

P.

Partial waiver of homestead right 27, 34
Patents:
Certified copies of 137–138, **143–144**, **162**
Correction of 136–137
Issue, record, and delivery of 94–95
Reservation proviso in, for all lands west of one hundredth meridian .. 88
Suits to vacate and annul, erroneously issued to railroads 64–67, 70, 95, **185**, **220**, **224**, **240**
Pawnee lands, Oklahoma 48, 52–53, **234**

Page.

Payment:
- Certificates of deposits for surveys may be used by settlers in payment for land ... 100
- Certificates of deposits for surveys not receivable in payment of fees and commissions ... 101
- Extensions of time to make—
  - Act of October 20, 1893, section 1, for certain ceded Indian lands in Oklahoma ... 52, **229**
  - Act of July 26, 1894, final proof and payment for homesteads and desert lands, and final payments for preemption ... 10–11, **230**, 264
  - Act of August 4, 1894, payment for desert lands ... 41, **231**
  - Act of March 2, 1895, payment for certain ceded Indian lands in Oklahoma, and for all ceded Indian reservations in North and South Dakota, Nebraska, Montana, and Idaho ... 52, **239**
  - Joint resolution of September 30, 1890, payment for homesteads and preemptions ... 10, 25, 264
- Forms—
  - Cash receipt (4—131) ... 271
  - Desert land receipt (4—143), final ... 298
  - Homestead receipt (4—137) ... 275
  - Homestead receipt (4—140), final ... 280
  - Homestead receipt (4—140*a*), for purchase money paid in installments ... 280
  - Preemption receipt (4—536) ... 272
  - Timber-culture receipt (4—148), final ... 289
- In timber and stone entries must be made at time of proof ... 46
- Land warrants and scrip issued under act of June 2, 1858, supreme court and agricultural college scrip, may be located in lieu of payment for lands in preemptions and commuted homesteads ... 6, 8, 10–11, 24, 27, **151**, **169**
- Land warrants and scrip issued under act of June 2, 1858, may be located in lieu of payment for desert, timber and stone, and timber-culture lands, and for lands sold at public auction, with exception cited (act of December 13, 1894) ... 8, 9, **236**

Perjury:
- Act of March 3, 1857, section 5, defining the crime in land cases, and providing penalty for ... **162**
- Act of June 3, 1878, section 2 (provision for penalty and forfeiture of purchase money for perjury in timber and stone entries) ... 45, **166**
- Act of June 14, 1878, section 6, oaths, etc., in timber-culture claims ... **169**
- Act of May 26, 1890 (provision for punishment of perjury in oaths made before officers authorized thereunder to administer such) ... **213**
- Section 2262, Revised Statutes (forfeiture of purchase money by preemptor for false swearing) ... **147**
- Section 5392, Revised Statutes, defining and providing penalty for ... **162**
- False oath taken before other officer than register or receiver ... 12

Plats:
- Notice of filing of ... 87
- Photolithographic township, sale of, under act of October 12, 1888 ... 138

Plats and diagrams, fees for furnishing township (act of March 3, 1883, section 2) ... 140, **181–182**

Pottawatomie lands, Oklahoma ... 48, **51–52**, **229**, **239**

Preemption:
- Abandonment after removal of timber ... 35
- Absence in military or naval service (sec. 2268, Rev. Stat.) ... **148**
- Act of March 3, 1891, section 4, repealing laws, etc. ... 10, **222**, **260**
- Administrator, proof by (sec. 2269, Rev. Stat.) ... **149**, 264
- Alienation of portion of claim for certain public purposes (sec. 2288, Rev. Stat.) ... **152**
- Amendment of filing and entry ... 90–91, 135–137
- Assignee of preemptor before patent (sec. 2262, Rev. Stat.) ... 264
- Changes of entry ... 136
- Contest against ... 92
- Conversion of, into homestead entry ... 16, **167**, **187**
- Death of preemptor, who may submit proof (sec. 2269, Rev. Stat.) ... **149**, 264
- Declaratory statement, filing of (sec. 2265, Rev. Stat.) ... **148**, 261
- Executor, proof by (sec. 2269, Rev. Stat.) ... **149**, 264
- Extension of time for proof and payment ... 10–11, **230**, 264
- Forms—
  - Affidavit (4—061) required under section 2262, Revised Statutes ... 273

Preemption—Continued. Page.
Forms—Continued.
Declaratory statement (4—534) for offered lands 272
Declaratory statement (4—535) for unoffered lands 272
Preemption homestead affidavit (4—071) 281
Proof (4—374) 273
Receipt and certificate (4—536) 272
Fees and commissions (sec. 2238, Rev. Stat.) **144, 261**
Heir, proof by (sec. 2269, Rev. Stat.) **149, 264**
Insane settler, perfection of claim of **177, 264**
Joint entry under section 2274, Revised Statutes **149**
Leaves of absence 16–18, **173, 187, 264**
Officers before whom affidavits and proof may be made 263
Osage Indian trust and diminished reserve lands, Kansas 47–48, **151–152, 174–176**
Payment, extension of time for 10–11, **230, 264**
Payment with warrants and certain scrip 6, 8, **151, 169**
Price of land to preemptors 264
Proof, requirements as to 262–263
Qualifications of preemptors **147, 261**
Register or receiver, claimant appointed (sec. 2287, Rev. Stat.) **152**
Relinquishments of filings 91, **174, 262**
Revised Statutes (secs. 2257–2288) relating to preemptions **146–152**
Saline lands not subject to 82
Second filings (sec. 2261, Rev. Stat.) **147, 262**
Settlers on unsurveyed lands, filing for (sec. 2266, Rev. Stat.) **148**
Settlers on unsurveyed lands, school sections (sec. 2275, Rev. Stat.) **150**
Suspended cash entries, confirmation of 89–90, 135, **160–161, 223**, 265–270
Timber, necessary, may be taken from land cleared for cultivation 35
Preference right of contestant 39, 44, 91, 94, **174, 228**
President's proclamations:
March 23, 1889, Muscogee (or Creek) and Seminole ceded lands 207–209
February 10, 1890, relative to Sioux Indian lands 201–204
Price, minimum and double minimum 4, **158, 179, 188**
Private entry 3–6
Act of March 2, 1889, section 1, withdrawing lands from, except in Missouri 4, **187**
Act of May 18, 1898, section 2, providing that all public lands in Missouri are subject to **255**
Change of entry 136
Law providing for (secs. 2354–2355 and 2357, Rev. Stat.) 4, **160**
Mode of proceeding to make 6
Private land scrip:
Assignment, location, and satisfaction of, under acts of January 28, 1879, and December 13, 1894 8–9, **169, 236**
Fee for locating, same as for warrants 8, **144–145**
Location of, in lieu of payment 8–9, 24, 27, **169, 236**
Protest:
Against homestead commuted for town site in Oklahoma 56
Against timber and stone proof 46
Publication:
Notice of intention to make proof 83–84
Service of notice of contest by 93
Public land States and Territories, list of 3
Having no United States land offices 95
Public land strip 48, 50, 53, **211–212, 229**
Public lands:
Acquisition of, restricted to 320 acres 88–89, **226**
Commissioner of the General Land Office charged with the executive duties appertaining to the survey and disposal of (sec. 453, R. S.) **143**
Disposed of through district offices, except in certain States 3
Disposed of through General Land Office (in States having no district offices) 95
Information regarding vacant, obtained by application to district offices (list on p. 270) 3
In possession of Indian occupants, no entries allowed for 88
Secretary of the Interior charged with the supervision of business relating to, (sec. 441, Rev. Stat.) **143**

Public Lands—Continued. Page.
Squatters have no right to cut timber from ... 35
States and Territories containing ... 3
Public sale of lands ... 3–6
Abandoned military reservations ... 80–82
Act of March 3, 1891, sections 9 and 10, prohibiting, except in certain cases ... 3–4, 224
Change of entry ... 136
Isolated tracts ... 5, 161, 238
Payment—warrants and scrip in lieu of cash ... 8–11
Revised Statutes, sections 2353, 2357–2360, providing for ... 3, 158

R.

Railroad adjustments ... 64–80
Act of March 3, 1887, adjustment of grants and forfeiture of unearned lands ... 64–70, 185–187
Act of June 22, 1874 (and amendatory act of August 29, 1890), for relief of settlers on railroad lands ... 70–71
Act of September 29, 1890, forfeiting railroad lands ... 75–80, 215–218
Act of March 2, 1896 (extension of time to vacate patents erroneously issued to railroads, etc.) ... 70, 95, 240–241
Act of April 14, 1896, relinquishment of lands by New Orleans Pacific Railroad ... 71, 242
Act of July 1, 1898, conflicting claims within NorthernPacific grant ... 73–75, 256–258
Railroad limits (rights of settlers within) ... 64–80
Act of June 22, 1874 (amended by act of August 29, 1890), relief of settlers on railroad lands ... 70–71
Act of March 3 (and July 1), 1879, and May 6, 1886, additional rights to homestead settlers ... 31–34, 171, 172, 183
Act of January 13, 1881—
Relief of settlers on lands restored to public domain ... 63, 180
Form of application to enter ... 63
Act of March 3, 1887—
Adjustment of grants and forfeiture of unearned lands ... 64–70, 185–187
Classes of persons affected ... 65–66, 68
Contest by adverse claimant instituted as in ordinary contests ... 68
Homestead and pre-emption entries erroneously canceled on account of grants, may be reinstated, with exceptions cited ... 68
Status of purchasers of lands from companies, erroneously certified on grants ... 68–69
Status of settlers on lands, erroneously certified on grants ... 67–68
Act of February 12, 1896, in regard to purchase price ... 240
Reimbursement for failure of title in Kansas and Nebraska ... 107–109, 184–185
Act of September 29, 1890—
Forfeiting certain lands, granted to States and corporations to aid in construction of railroads, etc ... 75–80, 215–218
Period within which applications to purchase and homestead entries may be made, fixed by act of February 18, 1891 ... 79, 219–220
Section 2, preference right of actual settlers at date of act, to make entries under homestead law ... 75
Section 3, option to purchasers from grantees, or their assignees ... 75–76
Time for purchase extended by acts of December 12, 1893, and February 18, 1897 ... 75–76, 79, 230, 246
Section 5, purchasers from Northern Pacific Railroad Company ... 77
Act of October 1, 1890, making provision for homesteaders and preemptors on Northern Pacific indemnity lands ... 71–72, 219
Act of January 23, 1896, amending section 3, act of September 29, 1890 ... 76
Act of February 12, 1896, payment for lands ... 70, 240
Act of April 14, 1896, relief of settlers within indemnity limits of grant to New Orleans Pacific Railroad ... 71, 242
Act of June 3, 1896, for relief of settlers on Northern Pacific indemnity lands ... 72–73, 244–245
Act of July 1, 1898, conflicting claims within Northern Pacific grant ... 73–75, 256–258
Receiving clerk, designation and duty of (sec. 461, Rev. Stat.) ... 143
Recertification of soldiers and sailors' certificates of right ... 30–31, 234, 259
Records, etc., exemplification of ... 137–138, 143–144, 162

Registers and Receivers: Page.
Appointment and term of service (secs. 2234–2236 and 2244, R. S. 144,146
Disqualified to hear land cases under certain circumstances 94
Duties of local officers 138–142
Attendance at their offices 138
In acting on applications for amendment 90–91
In acting on applications for entry 138
In acting on applications for extensions of time for payment 11
In acting on applications for leaves of absence 16–18
In acting on certificates of deposits for surveys when used in payment for land 101
In acting on desert-land entries 42–43
In acting on proofs transmitted by attesting officers 86
In acting on rejected applications and appeals 96–97
In acting on relinquishments 91
In acting on timber and stone entries 46
Notations to be made on tract books, place of residence and post-office address of homestead applicant 14
Notations to be made on tract books, post-office addresses of desert-land applicants, claimants and witnesses 42
Notations to be made on relinquishments 91
Notations to be made on allowance of additional entries 28, 30
Reports upon cases where appeals are filed 96–97
Reports, special 139
Residence of register and receiver (sec. 2235, Rev. Stat.) 144
To furnish township plats and diagrams 181–182
To administer oaths (sec. 2246, Rev. Stat.) 146
To keep a list of attorneys and agents 104
Statement of accounts, monthly and quarterly 142, 146
Homestead or preemption settler appointed register or receiver (sec. 2287, Rev. Stat.) 152
Penalty for false information by register (sec. 2247, Rev. Stat.) 146
Revised Statutes, secs. 2234–2247, relative to 144–146
Salaries of local officers—
Allowed $500 each per annum, and also certain fees and commissions (secs. 2237–2238, Rev. Stat.) 144
Not to exceed $3,000 each per annum, from any source (sec. 2240, R. S., and acts of August 4, 1886, and March 3, 1887) 141, 146, 183–184
Penalty for charging illegal fees (sec. 2242, Rev. Stat.) 141, 146
Vacancy in office, provision for settlers in case of 86–87
Reimbursement for failure of title in Kansas and Nebraska (act of March 3, 1887) 107–109, 184–185
Rejected applications to make entry 96
Relinquishments 91
Act of May 14, 1880, section 1, relative to, of preemption, homestead, and timber-culture claims 91, 174, 262
Filed in desert-land claims acted upon same as in homestead and other claims 44
Filed pending contests 93
Offering of timber-culture relinquishments for sale regarded as evidence of bad faith 38
Run only to United States 91
Repayment:
Applications for, requirements as to 105–106
Applications by heirs, executors, administrators, and assignees 106
Definition of "erroneously allowed" 105
Of double minimum excess (act of June 16, 1880, section 2) 107, 179
Of excesses of deposits for special surveys (secs. 2402 and 2403, Rev. Stat.) 98, 100–101
Of fees, commissions, and excesses paid by innocent parties on fraudulent and void soldier's additional entries (act of June 16, 1880, section 1) 106–107, 179
Of money paid for land erroneously sold so that sale can not be confirmed (secs. 2362–2363, Rev. Stat.) 105, 159
Of purchase money, fees, and commissions paid on void entries (act of June 16, 1880, section 2) 19, 105, 179
Not allowed where land purchased under act of June 15, 1880, is paid for with warrants or scrip 27
Reimbursement for failure of title in Kansas and Nebraska, act of March 3, 1887 107–109, 184–185

Page.
Reservation proviso in patents for all lands west of 100th meridian 88
Reservations, abandoned military 80–82, **188, 235, 238**
Reservoir lands in Wisconsin and Minnesota 63, **214**
Special affidavit required (form 4—102*a*) 63, **285**
Reservoir sites, act of March 3, 1891, section 17, in relation to 88, **226**
Residence:
By widow, heirs, or devisee of a deceased homesteader not absolutely required 15, 24
Credit for military service in homesteads 22, 94, **156, 256**
Five years' continuous, required under sec. 2291, Rev. Stat 14, **154**
Homestead settlers who were engaged in Spanish war 22, 94, **256**
Must be established within six months from date of homestead entry .. 14
Not established on homestead within six months because of climatic hindrances (sec. 2297, Rev. Stat., as amended by act of March 3, 1881) .. 19, 23, **155, 181**
Not required on homestead beyond a period of five years 94
Occasional visits do not constitute 14
Where party is in military service, section 2308 ..... **157**
Restoration of homestead right 19–21
Restriction on acquisition of title to agricultural public land (act of August 30, 1890) 5, 41, **88–89, 226**
Revised Statutes:
Section 441 (duties of the Secretary of the Interior) 97, **143**
Section 453 (duties of the Commissioner of the General Land Office) ... **143**
Section 458 (duties of the Recorder of the General Land Office) 94
Sections 461, 891, and 2469–2470 (exemplifications of patents, records, etc.) 137, **143–144, 162**
Section 2223 (general duties of surveyors-general) 124
Sections 2234–2247 and 2295 (registers and receivers) 3, **144–146, 155**
Section 2238 (fees and commissions) 7, 35, 36, 101, 140, **144–145**
Section 2239 (additional fees, consolidated land office) **145**
Section 2242 (penalty for collecting illegal fees) **141, 146**
Section 2246 (administration of oaths by registers and receivers without charge) 140, **146**
Sections 2257–2288 (preemptions) **146–152**, 222
Section 2259 (preemption right) **147**
Section 2262 (preemption affidavit) **147**, 178
Section 2273 (appeals) 97, **149**
Sections 2275–2276 (settlements on unsurveyed lands found to be embraced in school sections) **150–151**, 222
Sections 2277–2278 (warrants and scrip in preemption payments) .. 7, 10, **151**
Sections 2283–2285 (Osage Indian trust and diminished reserve lands in Kansas) **151–152**
Section 2287 (homestead or preemption settler appointed register or receiver) **152**
Section 2288 (transfers by settlers of portions of their claims for certain public purposes) 14, 19, **152**, 222
Sections 2289–2312 (homesteads) 32, **153–158**
Section 2289 (homestead right) 11, 21, 32, **153, 223**
Section 2290 (mode of procedure to make homestead entry) **153, 223**
Section 2291 (homestead, five-year proof, certificate, patent, descent of vested right) 14, 15, **154**, 165
Section 2292 (sale of homestead for benefit of minor orphan children) . 15, **154**
Section 2293 (affidavits of homestead applicants who are in the military or naval service) 12, **154**
Section 2294 (to make homestead entry without personal attendance at district office) 12, **154, 213**
Section 2296 (nonliability of homesteads to satisfaction of debts) 19, **155**
Section 2297 (abandonment of homesteads) 12, 19, **155, 181**
Section 2298 (limitation of homestead right as to amount of land) 19, **155**
Section 2301 (payment for homesteads before expiration of five years) .. 24–25, 51, **155, 178, 223**
Sections 2304–2309 (soldiers and sailors' homesteads) **156–157**
Section 2304 (soldiers and sailors' homestead rights) 22–24, 49, **156**
Section 2305 (deduction of time of military and naval service from period of homestead residence) 22, 49, **156**, 199
Section 2306 (soldiers and sailors' additional homesteads) 29–31, 49, **156**, 179, 234, 259

Revised Statutes—Continued. Page.
Section 2307 (widows and minor orphan children of soldiers and sailors) 24, 29, 49, **156**
Section 2309 (filings of soldiers or sailors by agents) 22, **157**
Sections 2310–2312 (Stockbridge Munsee Indians) **157**
Sections 2347–2352 (coal land entries) 102
Sections 2353–2355, 2357–2360 (public sales and private entries of lands) 3–4, 41, **158**
Section 2357 (minimum price per acre for public lands) 3–4, **158**, 264
Sections 2362 and 2363 (repayment of purchase money for land erroneously sold) 105, **159**
Sections 2369–2372 (changes of entry) **135–136**
Sections 2387–2389 (town-site entries) 59, 129, 206, 224
Sections 2401–2403 (special surveys and deposits for) 97–98, 102, 103, **159**, **170**, 181, **233**
Sections 2414–2415 and 2437 (military bounty land warrants) 6–7, **160**
Sections 2450–2454 and 2456–2457 (board of equitable adjudication) 135, **160–161**, 265–270
Section 2455 (sale of isolated tracts) 5, **161**, **238**
Section 2461 (cutting of timber on lands of the United States) 112, 128
Sections 2469–2470 (certified copies of records, books, etc.) 137–138, **162**
Section 2478 (Commissioner to enforce land laws by making appropriate regulations) **162**
Section 5392 (definition of and penalty for perjury) **162–163**
Right of way:
For irrigation, act of March 3, 1891, sections 18–21 **226–227**
For tramroads, canals, or reservoirs (act of January 21, 1895) **237**
Act of May 11, 1898, amending preceding act **247**
Over Alaska lands 115–122
Rules of practice printed in separate circular 93

S.

Sac and Fox lands, Oklahoma 48–51
Sale of homestead before claimant is entitled to patent 19
Saline lands, or salt springs 82–83
Disposal of, under act of January 12, 1877 82–83, **163**
Law does not apply to Territories nor to certain States 83
Law not repealed by act of March 2, 1889 4, 82
Not subject to homestead or preemption entry 82
School sections, settlers on lands before survey found to be embraced in (sec. 2275, Rev. Stat.) **150**
Scrip:
Agricultural college 9–10, 24, 27, **144**, **151**
Change of location 136
Private land 8–9, 24, 27, **144–145**, **169**, **236**
Supreme court 8, 27
Second homestead entries 19–21, 31–32, 48–49, 72–73, 75
Secretary of the Interior, duties of, under section 441, Revised Statutes **143**
Seminole lands, Oklahoma 48, 51, **204–206**, 207–209
Service of notice of official action 83, 96, 139
Settlement 14, 261
Settlers:
Becoming insane, provision for (act of June 8, 1880) 15, **177**, 264
On unsurveyed lands (act of May 14, 1880) 13, 14, **174**
On unsurveyed lands, school sections (sec. 2275, Rev. Stat.) **150**
Right to use of timber on public lands 110
Within railroad limits 31–33, 63, 70–80
Sickness:
Leave of absence for 16–17, **187**
Second homestead entry, act of December 29, 1894 20–21, **236**
Simultaneous applications to enter same tract of land 13
Sioux Indian Reservation 60–62, **189–201**, 201–204
Act of March 2, 1889 60, **189–201**
Section 21, restoring ceded lands to public domain to be disposed of under homestead and town-site laws, with certain modifications 61–62, **198–199**
Act of March 3, 1899, in regard to payment 62
Additional payment required of entrymen (not collected upon entry, but when proof is tendered) 61

Sioux Indian Reservation—Continued. Page.
Commutation provision of homestead law (sec. 2301, Rev. Stat.) made applicable to ceded portion in South Dakota (act of March 3, 1891, sec. 6) 25, 61-62, **223**
Land reserved by section 16 of act for Dakota Central Railroad Company, made subject to town-site entry only (act of March 3, 1891, sec. 22) **194-196**, 227
President's proclamation of February 10, 1890 201-204
Price of land to homesteaders:
Section 21 of act 61-62, **198-199**
Act of March 3, 1899 62
Becomes fixed upon first entry thereof 61
Settlers on what was known as Crow Creek and Winnebago Reservation (sec. 23 of act) 62, **199-200**, 203
Town-site entries may be made in accordance with circular of July 9, 1886 62
Soldiers and sailors' homesteads:
Credit for military or naval service (sec. 2305, Rev. Stat.) 21, 24, 49, **156**
Act of June 16, 1898, soldiers in Spanish war 22, 94, **256**
Declaratory statement—
Filing of, does not bar other filings and entries 23
Filing of, exhausts right 23
May be filed by agent or in person (sec. 2309, Rev. Stat.) 22, **157**
Entry by guardian of minor orphan children 24, 29, **156**
Entry must be made by soldier or sailor and not by agent 23
Entry must be made within six months from filing of declaratory statement (secs. 2304 and 2309, Rev. Stat.) 22, 23, **156-157**
Entry not made within six months because of climatic hindrances 23
Entry not made within six months may be allowed afterwards in certain cases where no adverse right has intervened 23
Entryman must reside upon, improve, and cultivate homestead for at least one year 22, **156**
Evidence of military or naval service required of applicant to make entry 22
Forms—
Application (4—015) 284
Declaratory statement, when filed in person (4—546) 283
Declaratory statement, when filed by agent (4—545) 283
Final affidavit (4—065) 284
Revised Statutes (secs. 2304-2309) providing for **156-157**
Rights of widows and minor orphan children 24, **156**
Settlement and improvements, claimant allowed six months after filing claim within which to commence 22, **155**
Soldiers and sailors' rights in Oklahoma 49-50
Soldiers and sailors' additional homesteads 29-31
Act of March 3, 1893, relief of purchasers of land under invalid certificates of right 30, **232**
Act of August 18, 1894, validating certificates of right in hands of bona fide purchasers 30-31, **234**
Alaska unsurveyed lands, entries allowed for 114-115
Assignment of certificates under act of August 18, 1894 30-31
Certification of right discontinued 29
Circular of February 18, 1890, uncertified rights 259
Circular of December 4, 1896, certified rights 256
Forms—
Application to enter (4—008) 284
Assignment of certificates under act of August 18, 1894 300-301
Final certificate (4—197) 285
Oklahoma lands not subject to 49-50
Right of entry defined by section 2306, Revised Statutes 29, **156**
Right of entry extended by section 2307, Revised Statutes, to widow, if unmarried, otherwise to minor orphan children by guardian 29, **157**
Right of entry is transferable 29
Sioux lands not subject to 61
"Soonerism," Oklahoma homesteads 50
Spanish war, settlers who were soldiers in 22, 94, **256**
Special surveys, deposits for 97-103, **159-160, 170, 181**, 233-234
Squatters upon public lands have no right to cut timber 35

Page.
States:
In which there are no land offices 95–96
Within which public lands are located 3
Stockbridge Munsee Indians (secs. 2310–2312, Rev. Stat.) 157
Stone land. (Timber and stone land) 45–47, 165–167, 231
Supreme Court scrip 8, 29
Surveys, deposits for special:
Act of March 3, 1879, amending section 2403, Revised Statutes 170
Act of August 7, 1882, adding proviso to section 2403, Revised Statutes 181
Act of August 20, 1894, amending sections 2401 and 2403, Revised Statutes, relative to 97–98, 233
Applications for surveys—
By coal claimants 102–103
By owners or grantees 103
By settlers 98–100
Assignment of certificates of deposit 101
Certificates may be used by settlers in paying for land 100
Certificates not receivable in payment of fees and commissions 101
Duties of register and receiver when certificates are used to pay for land 101–102
Repayment of excess of deposit 98, 100–101
Revised Statutes (2401–2403) relative to 98, 159
Surveys of desert-land claims 43
Suspended entries:
Confirmation of, by Board of Equitable Adjudication 135, 160–161, 265–270
Confirmation of, under section 7, act of March 3, 1891 ..... 89–90, 223

T.

Timber and stone land 45–47
Act of June 3, 1878, providing for disposal of, in certain States 45–47, 165–167
Act of August 4, 1892, making act of June 3, 1878, applicable to all public-land States 45, 231
Act of May 18, 1898, abolishing distinction between offered and unoffered land 255
Contest against claimant 46
Entry by an association of persons 45, 47, 165
Entry—
Character of sworn statement required 45, 47, 166
May be made by married woman in certain States 45
Or filing, only one allowed to any person or association 47, 165
Fees in entries same as in mining claims (act of June 3, 1878, sec. 3) 166
Forms—
Sworn statement (4—537) 290
Testimony of witnesses (4—371) 291
Lands which may be entered as 45, 165
One person or association limited to 160 acres, which must be in one body 45
Payment for land must be made at time of offering proof 46
Payment, warrants and scrip in lieu of cash 8
Price of land 165
Perjury for false swearing 166
Proof—
Evidence must be taken before register and receiver 46, 166
Fees for reducing testimony to writing (sec. 2238, Rev. Stat., pars. 10, 11, and 12, and act of June 3, 1878, sec. 3) 145, 166
Publication of notice of intention to make 45, 166
Protest against proof, hearing to be ordered 46
Qualifications requisite to make entry for 45, 165
Sworn statement, filing of 45–46, 166
Timber culture 36–39, 167–169
Act of June 14, 1878, to encourage the growth of timber on the western prairies 36–39, 167–169
Act of March 3, 1891, section 1, repealing timber-culture laws and providing for perfection of existing claims 36, 221
Act of March 3, 1893, modifying requirements as to trees 36–37, 232
Act of March 4, 1896, claimant's testimony 38, 242
Commutation, right of, under act of March 3, 1891, section 1 ..... 36, 221

Timber Culture—Continued. Page.
Contests ... 39, 92, 93
Preference right of successful contestant ... 39
Cultivation and planting required ... 36–37, **168, 232**
Debt, claim not liable for, prior to patent ... 39, **169, 221**
Fees and commissions in proof, act of March 3, 1891, section 1 ... 36, **144, 221**
Forms—
Affidavit (4—073*a*) in commutation ... 289
Receiver's final receipt (4—148) ... 289
Register's final certificate (4—217) ... 290
Testimony and final affidavit of claimant (4—385) ... 286–287
Testimony of witnesses (4—386) ... 288
Heirs, etc., of deceased entryman ... 38, **168**
Notice of intention to make proof ... 38
Officers authorized to take proof ... 38
Payment, warrants and scrip in lieu of cash ... 8
Proof, commutation and final, made in same manner ... 36
Relinquishments ... 91, 174
Relinquishments, offering of, for sale, how treated ... 38
Suspended final entries, confirmation of ... 135, 160–161, **223**, 265–270
Trees recognized as timber ... 38
Timber, abandonment of settlement claim after removal of ... 35
Timber depredations, laws and instructions relative to, form the subject of a separate circular ... 142
Timber destroyed by forest fires in Wisconsin, Minnesota, and Michigan ... 16, 24–25, **236**
Timber on public lands ... 35, 109–113
In Alaska ... 126–128
Timber, necessary, may be taken from land cleared for cultivation ... 35
Timber trespassers, cash purchase by (act June 15, 1880, sec. 1) ... 6, **178–179**
Tonkawa lands, Oklahoma ... 48, 52–53, 234
Township plats and diagrams, fees for furnishing ... 140, **181–182**
Townsites:
Act of March 3, 1891, section 16, relative to, on mineral lands ... **226**
Act of March 3, 1891, sections 11, 12, 13, 14, and 15, allowing entries in Alaska for townsites, etc ... 3, 129–135, **224–226**
Laws and instructions relative to, form the subject of a separate circular ... 226
Trade, manufacture, or other productive industry, entries for, in Alaska ... 122–126
Transmutation of preemption into homestead claims ... 16, **167, 187**

U.

United States district land offices, list of ... 270
Unoffered and offered lands, distinction between, abolished ... **255**
Unsurveyed lands:
Settlers on ... 13
Settlers on school sections (sec. 2275, Rev. Stat.) ... **150**
Soldier's additional allowed for, in Alaska ... 114–115

V.

Vacancy in office of register or receiver ... 86–87, **149**

W.

Waiver (partial) of homestead right ... 27, 34
War, homestead settler who serves in Army, Navy, or Marine Corps in time of ... 22, 94, **256**
Warrants, military-bounty land ... 6–9, 24, 27, 151, **160, 236**
Widow:
Of deceased homesteader ... 15, **154**
Of deceased Indian homesteader ... 34, **183**
Right to make soldier's additional homestead ... 29–31, **156**
Wife, deserted or divorced ... 12

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